

European Master's Degree  
In Human Rights and Democratisation

Awarded Theses  
of the Academic Year  
2012/2013

"Unravelling the puzzle of piracy: a Somali perspective"

Thesis *by* Fatma Mahamed Ahmed





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## FOREWORD

The *European Master's Programme in Human Rights and Democratisation* (E.MA) is the first Master's course in human rights and democratisation launched and financed by the European Commission that later served as model for establishing other Regional Master's around the world. Since January 2013 these are all connected and managed by the *European Inter-University Centre for Human Rights and Democratisation* (EIUC) under the *Global Campus of Regional Master's Programme* (GC).

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Each year the E.MA Council of Directors selects five theses which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, and potential usefulness in raising awareness about neglected situations or issues and capacity for contributing to the promotion of the values underlying human rights and democracy.

The E.MA Awarded Theses of the academic year 2012/2013 are:

- AHMED, Fatma, *Unravelling the Puzzle of Piracy. A Somali Perspective*, Supervisor: Prof. Hans-Georg Ehrhart, University of Hamburg (Germany).
- BERNAERTS, Jonathan, *The Cologne Judgment: A Curiosity or the Start Sign for Condemning Circumcision of Male Children Without Their Consent as a Human Rights Violation?*, Supervisors: Prof. Hannes Tretter, Prof. Manfred Nowak, University of Vienna (Austria).
- DE MAN, Annelie, *Are We Protecting Future Generations' Right to Food? A Study of Intergenerational Obligations*, Supervisor: Prof. Jean Allain, Queen's University of Belfast (United Kingdom).
- HESSLING, Leonard, *Water and the Arab Uprisings – The Human Right to Water and Sanitation in Post-Transition Egypt*, Supervisor: Vincent Durac, University College Dublin (Ireland).
- ODOYO, Roselyn Awuor, *From Russia with Love: An Impact Assessment of Resolution A/HRC/21/L2 on Sexual Minorities in Africa*, Supervisor: Prof. Maria Teresa Beleza, New University Lisbon (Portugal).

This volume includes the thesis *Unravelling the Puzzle of Piracy. A Somali Perspective* by Ahmed, Fatma, and supervised by Prof. Hans-Georg Ehrhart, University of Hamburg (Germany).

#### BIOGRAPHY

Fatma Ahmed joined EIUC in 2012. Prior to this she worked with a number of NGOs in London and also worked in the field in Tanzania with grassroots organisations where she gained specific human rights, development and gender-related experience. Fatma recently completed a fellowship at the Delegation of the European Union to the United

Nations (New York), where she acquired valuable insight experiences into the complex procedures of EU internal communication, coordination and decision-making, and the methods of work of the United Nations.

#### ABSTRACT

The UN Security Council has issued ten resolutions dealing specifically with piracy off the coast of Somalia. There has since been a growing concern among international, regional and maritime actors about the potential threats posed by the phenomenon of piracy as long as Somali waters remain in a state of lawlessness. Academics and international maritime actors have analysed the several dimensions of the threat to the global economy and global security that piracy off the Horn of Africa constitutes. However, there is a considerable gap in analysing the implications of piracy within Somalia and the broader local consequences. The present thesis addresses this gap and offers a Somali perspective on the dynamic challenges of piracy. Such analysis will inform the debate on prospects for long-term eradication of Somali piracy and propose pragmatic local solutions to confront the piracy problem within Somalia.

The main body of this thesis is divided into three parts: Part I analyses the political and social context of piracy to understand why it has flourished practically unfettered; Part II investigates its core characteristics to identify internal stakeholders; Part III proposes to rethink the counter-piracy approach to allow Somali people themselves to be at the forefront of tackling and eradicating piracy.

Like past editions, the selected theses amply demonstrate the richness and diversity of the E.MA programme and the outstanding quality of the work performed by its students.

On behalf of the Governing Bodies of EIUC and E.MA and of all participating universities, we congratulate the author.

PROF. FLORENCE BENOÎT-ROHMER  
EIUC Secretary General

PROF. RIA WOLLESWINKEL  
E.MA Chairperson

FATMA AHMED

UNRAVELLING THE PUZZLE OF PIRACY.  
A SOMALI PERSPECTIVE

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AMISOM	African Union Mission in Somalia
BMP	Best Management Practice
CGPCS	Contact Group on Piracy off the Coast of Somalia
CMF	Combined Maritime Force
CTF	Combined Task Force
EEZ	Exclusive Economic Zone
EU	European Union
EUCAP	NESTOR EU Maritime Capacity Building Mission in Horn of Africa
EUNAVFOR	European Union Naval Force Somalia
EUROPOL	European Law Enforcement Organisation
HHPN	Hobyo-Harradherre Piracy Network
ICC-IMB	International Chamber Commerce – International Maritime Bureau
ICU	Islamic Courts Union
IMO	International Maritime Organisation
INTERPOL	International Criminal Police Organisation
IRTC	Internationally Recommended Transit Corridor
IUUF	Illegal Unregulated Unreported Fishing
MARSIC	Maritime Security and Safety
MASE	Maritime Security Programme
MoU	Memorandum of Understanding
MSC-HOA	Maritime Security Centre – Horn of Africa
NATO	North Atlantic Treaty Organisation
PMPF	Puntland Marine Police Force
PPN	Puntland Piracy Network
ROLS	UNDP Rule of Law and Security programme
SEMG	Somalia and Eritrea Monitoring Group
SHADE	Shared Awareness and De-confliction
TFG	Transitional Federal Government
UAE	United Arab Emirates
UN	United Nations
UNCLOS	United Nation Convention on the Law of Sea
UNDP	United Nations Development Programme

UNODC  
US  
WFP

United Nations Office on Drugs and Crime  
Unites States  
World Food Programme

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Map of Somalia



## INTRODUCTION

### 1. STARTING POINT: PROBLEM DIAGNOSIS

The threat of Somali piracy has attracted international concern and has led to global, regional and local responses in counter-piracy operations offshore and military land-based anti-piracy operations. The United Nations Security Council has issued ten resolutions dealing specifically with piracy in Somalia<sup>1</sup>. Security Council Resolution 1816 acknowledged the limited capacity of the Transitional Federal Government (TFG) of Somalia to interdict pirates or to patrol and secure either the international sea lanes off the coast of Somalia or Somalia's territorial waters, and encouraged states interested in the security of maritime activities to participate in the fight against piracy on the high seas off the coast of Somalia<sup>2</sup>. The counter-piracy measures consisted of deploying naval vessels and military aircraft through national naval forces and three international naval coalitions; the European Union Naval Force Somalia (EUNAVFOR-Atalanta), the Standing Naval Group of the North Atlantic Treaty Organisation (NATO) through Operation Ocean Shield, and Combined Task Force 151, to patrol the high seas, the Gulf of Aden and Somali sovereign waters<sup>3</sup>. These measures have effectively reduced the number of successful hijackings by containing the maritime attacks. However, these methods essentially only treat the mere symptoms of piracy, as there is a noticeable gap

<sup>1</sup> Those are UNSC, 2008a-d; UNSC, 2009; UNSC, 2010a-b; UNSC, 2011a-c (S/RES/1816, S/RES/1838, S/RES/1846, S/RES/1851, S/RES/1897, S/RES/1918, S/RES/1950, S/RES/1976, S/RES/2015, S/RES/2020).

<sup>2</sup> UNSC, 2008a-b (S/RES/1816 and S/RES/1838).

<sup>3</sup> World Bank, 2013.

between the international community's rhetoric and its action. Piracy off the Somali coast has been able to prosper as states persist in treating piracy as largely sea-based, rather than as a land-based problem with a maritime dimension<sup>4</sup>.

Piracy is primarily rooted in Somalia's political and socio-economic conditions, hence the solution to the challenge of piracy remains on land<sup>5</sup>. The pirate networks have exploited the lack of legitimate governance structure in the country to anchor hijacked ships during ransom negotiations. Furthermore, pirate leaders have taken advantage of the underdevelopment, poverty and lack of legitimate employment opportunities to recruit jobless youth into the criminal enterprise.

The need to find a land-based solution gains even more importance as currently captured pirates are prosecuted in foreign states. At the time of writing in 2013, the United Nations Office on Drugs and Crime (UNODC) Counter Piracy Programme reported that a total of 1,200 persons were held in prisons around the world on charges related to piracy<sup>6</sup>. The costs of imprisoning the pirates in these foreign states are high and, due to the limited capacity and capability within Somalia, only a limited number of pirates are convicted<sup>7</sup>. The pirates prosecuted overseas also face severe sentences. Pirates currently prosecuted in the United States (US) and United Arab Emirates (UAE) face the death penalty<sup>8</sup>. Furthermore, the pirates captured are often foot soldiers, most of whom are impoverished, functionally illiterate youths, yet the financiers and masterminds of the pirate operations are virtually guaranteed immunity, as will be discussed later<sup>9</sup>. Therefore, the counter-piracy efforts must focus on punishing those at the top of the hierarchy who bear greatest responsibility and profit, rather than on the prosecution of the replaceable foot soldiers<sup>10</sup>.

Recently, there has been a paradigm shift whereby international and regional actors have attempted to combat piracy through land-based solutions. However, a significant gap remains in terms of land-based programmes in Somalia to address piracy. This is primarily owing to the

<sup>4</sup> Murphy, 2009a.

<sup>5</sup> Ehrhart & Petretto, 2012a-b.

<sup>6</sup> UNODC, 2013, p. 2.

<sup>7</sup> Ehrhart & Petretto, 2012a, see table on p. 39: Global Piracy Prosecution.

<sup>8</sup> BBC, 2013a-b; Dajani, 2012.

<sup>9</sup> SEMG, 2010.

<sup>10</sup> Ibidem.

lack of security on the ground and the lack of sufficient funding to support capacity building and alternative livelihoods<sup>11</sup>. Ehrhart and Petretto, stated that there is a need for a “Somalia first” approach in contrast to “piracy first,” which would rely on the Somali people themselves to lead the processes<sup>12</sup>. Starting from the author’s suggestion, there is a crucial need to establish Somali ownership of the piracy challenge and to confront the wider-scale issues of Somalia. The absence of rule of law and good governance is one of the prime causes of insecurity in Somalia and has facilitated piracy operations to date. Therefore, there is a need to redirect resources and funds to support institutional and operational challenges to governance, rule of law, maritime law enforcement and security, and economic growth<sup>13</sup>.

## 2. POLITICAL AND SCHOLARLY RELEVANCE

The Somali piracy epidemic has led to an extensive body of literature focusing on unravelling the challenges presented by piracy off the shore of Somalia<sup>14</sup>. The literature has primarily centred on the policy options, naval, military and legal opportunities, and challenges concerning Somalia. Most recently the focus has also included, but is not limited to, understanding the phenomenon of piracy, the behaviour and structure of the pirates’ organisation, and the root causes of Somali piracy, in order to propose policy directions that would help the international community to find sustainable long-term solutions<sup>15</sup>. It is evident from the amount of ink spilled on the topic of piracy that it is considered a substantial threat to the international community. Seemingly, there is a considerable gap in analysis of the implications of piracy within Somalia and the broader local consequences. The present thesis addresses this gap and seeks to evaluate the causes and effects of piracy within the country, how the piracy industry functions, and to what degree piracy is considered a threat within Somalia. This approach aims to provide an overview of piracy in a Somali context, to identify the crucial

<sup>11</sup> SEMG, 2012.

<sup>12</sup> Ehrhart & Petretto, 2012a.

<sup>13</sup> SEMG, 2012.

<sup>14</sup> Bahadur, 2011; Ehrhart & Petretto, 2012a-b; Kraska & Wilson, 2009; Hansen, 2009, 2012; Menkhaus, 2007; Murphy, 2009b, 2011; Pham, 2010, 2011.

<sup>15</sup> World Bank, 2013.

variables that aid pirate operations and why piracy has been able to flourish practically unfettered despite countless international counter-piracy operations. Such analysis will inform the debate on prospects for eradication of Somali piracy in the long term and propose pragmatic local solutions to confront the piracy problem within Somalia.

### 3. GUIDING QUESTION, RESEARCH GOALS AND HYPOTHESIS

Piracy has been regarded as a crime under customary international law for centuries. Currently, it is outlined in Articles 100-107 of the UN Convention on the Law of Sea (UNCLOS)<sup>16</sup>. Article 101 of UNCLOS defines piracy as:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)<sup>17</sup>.

There are obvious limitations inherent in this definition. First, according to international law, piracy can only occur on the high seas<sup>18</sup>. Therefore, the UNCLOS definition excludes acts of piracy committed in a state's Exclusive Economic Zone (EEZ)<sup>19</sup>. Secondly, piracy must be committed for "private ends" of which there is no clear description but it excludes politically motivated incidents or those committed by insurgents<sup>20</sup>.

As a result of the jurisdiction limitation presented by the UNCLOS definition, this paper will also take into account the International Maritime Organisation (IMO) definition of piracy and armed robbery.

<sup>16</sup> Murphy, 2011; Guilfoyle, 2010.

<sup>17</sup> United Nations Convention on the Law of the Sea, 1982, Article 101, p. 61.

<sup>18</sup> Guilfoyle, 2010.

<sup>19</sup> Ibidem.

<sup>20</sup> Petretto, 2008, p. 5.

Without referring to the location of the vessel, the IMO pragmatically defines piracy as:

An act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act<sup>21</sup>.

This definition is more practical as it is not constrained by the jurisdiction of a piracy act and makes no reference to piracy as acts committed for private ends. However since 2010, the IMO has distinguished between piracy and armed robbery<sup>22</sup>. Thereof, armed robbery is defined as:

1. Any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic and territorial sea;

2. Any acts of inciting or of internationally facilitating an act described above<sup>23</sup>.

However, the IMO definition of armed robbery is also restrained by the "private ends" clause. On the other hand, this limitation appears irrelevant to Somali piracy due to the pirates' modus operandi<sup>24</sup>.

Since 2005, Somali piracy has evolved and extended further away from the Somali Basin and into the high seas of the Gulf of Aden, the Red Sea and the Indian Ocean<sup>25</sup>. The phenomenal growth of this criminal enterprise merits closer examination. The present thesis aims to explore piracy within Somalia; as literature and research about piracy on land remains limited it is important to analyse the Somali context of piracy. An analysis of Somalia's socio-political background will frame the development of piracy; the characteristic of Somali pirates; identify the role of internal stakeholders; and the political economy of Somali piracy. In doing so, it sets out to answer the following specific research questions: How does piracy function within Somalia? To what extent, is piracy perceived as a threat within Somalia? How can the challenges of piracy be solved?

<sup>21</sup> ICC-IMB, 2008.

<sup>22</sup> ICC-IMB, 2010, p. 3.

<sup>23</sup> IMO defines piracy in accordance with the UNCLOS definition; ICC-IMB, 2010, p. 3.

<sup>24</sup> The pirates' modus operandi is addressed in Part II. Understanding Somali Piracy.

<sup>25</sup> See Figure 1 on p. 22 of this thesis.

The present thesis acknowledges the global implications of Somali piracy, however the thesis rests on the hypothesis that piracy is not a significant threat within Somalia. This notion is reflected through the national priorities set out by the government and the complicity of regional administrations in dealing with piracy. Furthermore, Somali piracy has rather highlighted the weakness of governance structures and the absence of the rule of law that have facilitated piracy.

#### 4. METHODS OF INQUIRY AND STRUCTURE OF WORK

The methodology used in this thesis is descriptive and analytical. It is based on thorough desk research of the UN publications on Somalia, official documents, reports, press releases and communiqués of the Republic of Somalia and regional administrations, and secondary literature combined with a qualitative interview. The UN publications consist of: Security Council Resolutions on Piracy off the Coast of Somalia, Security Council Reports on Somalia, the Report of the Panel of Experts and the Monitoring Group on Somalia as well as the Monitoring Group on Somalia and Eritrea. In addition, the paper will draw extensively on the publications and work of UNODC division on piracy, the Contact Group on Piracy off the Coast of Somalia (CGPCS) and the IMB annual statistic reports on piracy.

In particular, the work of Stig Jarle Hansen, Martin Murphy, and Ken Menkhaus – experts on Somalia and on piracy – will be used during the course of writing as the authors have conducted extensive research within Somalia and have broad knowledge of the region. Hansen, a notable expert on Somali piracy, has had the rare opportunity of interviewing Somali pirates. His research and work has addressed the structures of pirate networks and the evolution of pirate tactics and strategies. Murphy has published several books and journals on Somali piracy<sup>26</sup>. His work has addressed the nature of pirates, and the significance of politics and economics in pirate environments. Hansen and Murphy's writings serve as a theoretical backbone to understanding Somali piracy. Menkhaus, a specialist on the Horn of Africa, has written extensively on the political and social aspects of Somalia. His writings

<sup>26</sup> Murphy, 2009a-b, 2011.

have had a substantial focus on governance in the country, which will present alternative frameworks of Somali governance and political structure for this paper.

The central objective of this thesis is to understand the political and social context of piracy and how pirates operate within the country. The thesis is divided into three parts: Part I analyses the political and social context of piracy to understand why it has flourished practically unfettered; Part II investigates its core characteristics to identify internal stakeholders; Part III proposes a re-thinking of the counter-piracy approach to allow Somali people themselves to be at the forefront of tackling and eradicating piracy.

## 5. THEORIES

Piracy is a transnational organised crime that occurs either within the territorial waters of a state or on the high seas. In this thesis, piracy is understood as an opportunistic crime which is fuelled by the low risk and high reward offered in the hijack-for-ransom model. Criminologists have put forward theories and approaches to explain various criminal activities. In particular, “opportunity” theories of crime such as: the routine activity approach, the rational choice perspective, and crime pattern theory, build on the notion that “opportunity makes the thief<sup>27</sup>.” Felson and Clarke, identified ten principles of crime opportunity theories which underpin the emergence of crime<sup>28</sup>. The crime pattern theory best explains the case of Somali piracy. The criminology theory considers how people and things involved in crime move about in space and time<sup>29</sup>. The theory has three main concepts: nodes – referring to where people travel to and from, which generate crime within their proximities; paths – the routes people take in their everyday activities are closely related to where they fall victim to crime; and peripheries – referring to the boundaries of areas (explains crimes committed inside and outside edges)<sup>30</sup>. Therefore, an offender searches for crime targets around personal activity nodes and the paths among them, and in the

<sup>27</sup> Felson & Clarke, 1998.

<sup>28</sup> For further examples of the crime opportunity principles, see *ibidem*, pp. v-vi.

<sup>29</sup> *Ibidem*, p. 6.

<sup>30</sup> *Ibidem*.

case of Somali pirates the existence of busy sea routes with high volumes of daily commercial traffic produces the possibility for crime to occur. To some extent, crime pattern theory identifies the physical environment of the perpetrator to underpin why the “opportunity makes the pirate.”

The emphasis on the environment surrounding pirates is also highlighted in the work of Murphy which identified seven major factors that encourage piracy, lessen the risk of capture or detention, and help protect pirate capital: legal and jurisdictional opportunities, favourable geography, conflict and disorder, under-funded law enforcement institutions, permissive political environment, cultural acceptability, and reward<sup>31</sup>. These factors are all present in Somali piracy and demonstrate the fragility of the state, the lack of security, governance, and the rule of law, which are contributing factors to the functionality of pirate operations. Therefore, the governance structure and the rule of law in Somalia are both the problem and the solution for piracy.

### *Good Governance and Rule of Law*

A fundamental aspect of Somali piracy operations is the access to empty, uninhabited coastlines, which are used as launching sites for operations and anchorage bases to negotiate ransoms. The complexity of Somalia’s political landscape leaves several territories ungoverned and as a result aids the efficiency of piracy operations. The twenty-two years of conflict in southern Somalia are a product of collapsed and dysfunctional governance structures. However, the absence of a sovereign central government has not left Somalia without governance. Following the state collapse in 1991, Somalia organised itself around hybrid political orders structured according to a combination of religious practice (Islam), clan-based orders and evolving neighbourhood/village/city. For example, Somaliland located in the north-west of Somalia has to some extent established democratic governance by restoring law and order in the territory. Furthermore, the Islamic Courts Union (ICU) also provided some form of governance in Mogadishu during its regime<sup>32</sup>. Interestingly, Somaliland has not been exposed to piracy operations off its coast to date, and during the ICU reign there were no records

<sup>31</sup> Murphy, 2009b, p. 28.

<sup>32</sup> Bøås, 2013.

of piracy operations either as the ICU actively suppressed piracy by targeting pirate bases<sup>33</sup>. These alternative hybrid political orders formed a degree of governance within Somalia demonstrating the necessity of governance and rule of law to overcome criminality and piracy. This view is supported by the Director of IMB, Pottengal Mukundan, who stated in an interview that: “The root cause of piracy is not at sea, it is on shore in Somalia.” “So long as Somalia has got parts of the country which are ungoverned without law enforcement or judicial systems, piracy is going to continue<sup>34</sup>.” At present the governance structure in Somalia is improving but still lacks transparency, legitimate political structures, and an effective law enforcement and judicial system, which has allowed criminal enterprises of piracy to exploit the shortcomings of governance in Somalia.

<sup>33</sup> Murphy, 2011; Hansen, 2009.

<sup>34</sup> Salinas, 2013.

PART I.

THE POLITICAL AND SOCIAL  
CONTEXT OF SOMALI PIRACY

INTRODUCTION

Somalia offers favourable opportunities for pirates. Firstly, it has the longest coastline of any country in Africa. Secondly, its coastline is a major sea-lane between the Middle East and Europe and the Far East. Thirdly, the absence of rule of law and legitimate governance within Somalia has facilitated the growth of piracy in the last decade. Therefore, to understand the rapid development of piracy off the shores of Somalia, it is crucial to comprehend the context in which it derived from. Part I aims to provide a comprehensive perspective of the development of piracy within Somalia. Chapter 1 focuses on analysing the origin of piracy. Chapter 2 describes the responses to piracy within Somalia by regional administrations: TFG, Puntland, Somaliland. The section will conclude and remark on the relevance of the political and social context of Somali piracy and the impact of counter-piracy measures applied by local actors.

1.

ORIGINS OF SOMALI PIRACY

The date of origin of Somali piracy has often been disputed as statistics present a large variation in the frequency of piracy. There are narratives which claim that piracy arose in the early 1990s as a result of foreign trawlers fishing illegally off Somalia's coastline. President Farole of Puntland State of Somalia during the UN Security Council meeting on Somalia reiterated the perception of piracy: "Illegal Unregulated Unreported Fishing (IUUF) in Somali territorial waters triggered the piracy problem [...] created armed resistance by Somali fishermen against foreign trawlers, which led eventually to ransom payments and escalation of pirate attacks against commercial vessels and innocent seafarers<sup>35</sup>."

This thesis does not dispute the claim that Somalia's rich and unpatrolled waters have been exploited by foreign fishing trawlers, but it is not plausible for Somali pirates to claim that they are acting as coast guards protecting their territorial waters. An analysis of the pirate activities and targets will reveal that pirates have not always targeted fishing vessels, but rather slow-moving cargo ships, as they are considered more valuable, and pirates' operations usually extend far beyond Somali national waters into the high seas of the Indian Ocean<sup>36</sup>. Therefore, the misconceptions surrounding the origin of piracy must be approached with greater scrutiny. There are recorded incidents of Somali fishermen firing their weapons against illegal trawlers during the early 1990s but these confrontations would not constitute piracy according to the definition outlined in UNCLOS<sup>37</sup>. However, these narratives

<sup>35</sup> President of Puntland State of Somalia, 2011, p. 3.

<sup>36</sup> Part II identifies the targeted vessels of Somali pirates; Hansen, 2009; World Bank, 2013.

<sup>37</sup> Menkhaus, 2009, p. 22.

have highlighted the ambiguity of piracy and Somalia's territorial sea. The favourable breadth of territorial sea recognised under international law has been limited to twelve nautical miles (nm)<sup>38</sup>. However, Somalia declares that its territorial sea extends to 200 nm, which exceeds the authorised limit<sup>39</sup>. Furthermore, complications arise as Somaliland also declares that: "Somaliland's waters will reflect the limits set out in the laws of its other mar[i]time neighbours (Djibouti and Yemen) and are likely to consist of a territorial sea of 12 nautical miles, a contiguous zone of 24 nautical miles and an Exclusive Economic Zone of 200 nautical miles<sup>40</sup>." The adviser to the UN Secretary-General on Legal Issues related to Piracy off the Coast of Somalia, Jack Lang, expressed that: "In the absence of delimitation in accordance with international law, Somalia is legally deprived of a territorial sea and an exclusive economic zone<sup>41</sup>." Therefore, there is a crucial need firstly for Somalia and its regional federal administrations to tackle its political status and secondly to define its maritime jurisdiction in order to effectively declare its coastal sovereignty. The declaration would also enable Somalia to resolve its maritime dispute with Kenya, as the two states have been in dispute over ownership of the waters and where the border should be demarcated<sup>42</sup>. However, the likelihood of this dispute being resolved in the near future remains bleak as the Federal Government of Somalia issued a press release on 6 June 2013, reiterating its position on the Memorandum of Understanding (MoU) signed in April 2009 by the TFG Minister of International Affairs and the Kenyan Minister of Foreign Affairs which it claims to be "null and void" and that the government does not consider it appropriate to open new discussions on maritime demarcation or limitations on the continental shelf of any parties<sup>43</sup>. Nevertheless, pirate activities extend far beyond the Somali coast and have nothing to do with protecting national interest, therefore

<sup>38</sup> Neumann & Salomon, 2012.

<sup>39</sup> *Ibidem*.

<sup>40</sup> Somaliland Law, 2013.

<sup>41</sup> Lang, 2011, p. 30.

<sup>42</sup> "Kenya claims an area extending up to the latitude of the point where the land border reaches the coast, while, instead, in accordance with international law of the sea, an equidistance line normally constitutes the point of departure for the delimitation of the continental shelf between two States with adjacent coasts. Somalia bases itself on the latter view." The Transitional Federal Government of the Somali Republic, Office of the Prime Minister, 2009, p. 1.

<sup>43</sup> The Federal Government of the Somali Republic, Office of the Prime Minister, 2013.

their activities will continue to persist as long as there are low risks and high rewards in the pursuit of their financial ends.

### 1.1. INDUSTRIALISATION

Maritime piracy emanating from the Somali coast has highlighted the vulnerability of the maritime domain to piracy. Since 2005, the criminal enterprise of Somali piracy had launched 1,068 violent attacks on maritime traffic in the Gulf of Aden, the Indian Ocean and the Red Sea<sup>44</sup>. The unique business model of Somali pirates consisted of hijacking vessels and holding the crew and cargo for ransom. The frequency of pirate activity has largely been affected by the political and social conditions in Somalia. The political turbulence and the inter-factional conflict within Somalia's TFG in the early 2005 contributed to the instability in the region. That year, a total of thirty-five attempted and actual hijacks were recorded, as well as an additional ten recorded in the Red Sea and Gulf of Aden<sup>45</sup>. Sixteen vessels, cargo and crew were reportedly hijacked and released upon payment of ransom. The IMO annual report revealed that the positions of the hijacked vessels were located off the eastern coast of Somalia: at Hobyo, Kismayo, Merca and the vicinity of Mogadishu. The security and political vacuum in the region reflected the gradual rise in pirate activities. At the time, central Somalia was without governance as the TFG was based in Nairobi as President Yusuf's faction insisted that Mogadishu was too insecure and foreign troops were necessary in order to allow the TFG to govern within Somalia. However, the opposing faction led by Speaker of the Parliament, Sharif Hassan, disagreed and aimed to restore security and stability without the assistance of peacekeeping forces. The critical issues that polarised the TFG factions enabled armed militants and criminal pirate groups to exploit the absence of governance, security and rule of law to conduct their activities<sup>46</sup>. However, the anarchy in the region was soon challenged by the ICU, which gained control of most of southern Somalia in 2006. In an effort to restore peace and security in the region the ICU publicly "declared war on piracy" as it was deemed contrary

<sup>44</sup> World Bank, 2013, p. 1.

<sup>45</sup> ICC-IMB, 2005.

<sup>46</sup> Terdman, 2008.

to Islamic law<sup>47</sup>. Piracy declined significantly as a result of the union's anti-piracy efforts, which despatched 275 militiamen to Haradheere to eradicate piracy by targeting the pirates' bases<sup>48</sup>. Piracy re-emerged after the Ethiopian intervention that led to the collapse of the ICU, destroying the most efficient local remedy against piracy available<sup>49</sup>. However, bear in mind that this period coincides with the monsoon period<sup>50</sup>.

The removal of the ICU reinstated the TFG, which controlled virtually no territory in Somalia and had made no progress in extending its authority at a local level. Piracy once again began to thrive and steadily increased until 2011 (see Figure 1). In 2007, piracy activities were concentrated around the Somali coastline and the Gulf of Aden and a total of forty-four attacks were attempted of which thirteen were successful<sup>51</sup>. The following year a further ninety-two attacks were attempted in the Gulf of Aden. The pirates persisted to target vessels despite the presence of international naval forces which began patrolling the high seas in 2008. The attention of pirate attacks escalated with the high-profile ships captured by the pirate groups. Amongst these hijacks was the capture of *Le Ponant* in the Gulf of Aden, an 850-ton, three-masted French luxury sail cruise ship<sup>52</sup>. The vessel was sailed to the town of Garacad where it was anchored and US\$2 million was demanded for ransom for its release<sup>53</sup>. The ransom was paid and the luxury cruise ship was released but a French Special Forces team took robust counter-piracy measures and stormed the base, where they captured six alleged members of the pirate group and transported them to France to stand trial<sup>54</sup>. However, the counter-piracy measures applied did not deter or disrupt the pirate activities, instead the pirates adapted their tactics and demanded larger ransoms. From 2009 onwards pirate operations expanded further into the Gulf of Aden, the Red Sea and the Indian Ocean.

<sup>47</sup> Hansen, 2009; World Bank, 2013; Murphy, 2011.

<sup>48</sup> Murphy, 2011.

<sup>49</sup> Hansen, 2009.

<sup>50</sup> International Expert Group on Piracy off the Somali Coast, 2008; pirate activities decrease during the monsoon season as the harsh weather conditions greatly impact pirates' ability and desirability to conduct pirate operations.

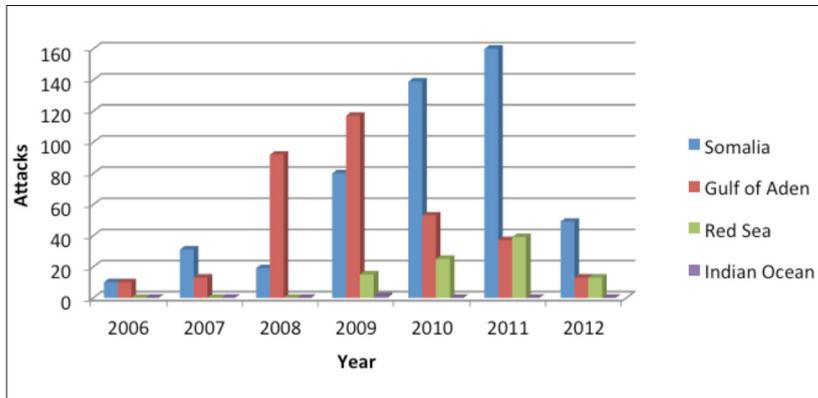
<sup>51</sup> ICC-IMB, 2010; World Bank, 2013.

<sup>52</sup> Murphy, 2011.

<sup>53</sup> *Ibidem*.

<sup>54</sup> *Ibidem*.

Figure 1. Number of actual and attempted attacks attributed to Somali pirates



The International Expert Group on Piracy off the Somali Coast reported in 2008 that pirate groups operated from the region of Puntland and south central Somalia: Eyl, Garacad, Hobyo, Haradheere and Mogadishu<sup>55</sup>. These differed from the recorded pirate bases used in 2005, as Merca and Kismayo no longer featured<sup>56</sup>. However, the coastal town of Merca and Kismayo was under siege by Al-Shaabab in 2008, which perhaps explains the decline in pirate activities within this region<sup>57</sup>. Merca and Kismayo were liberated by Somali and AMISOM (African Union Mission in Somalia) forces in 2012<sup>58</sup>.

The variations of sites used by Somali pirates indicate that the political and social conditions of the ports play a significant role. Somaliland's coastal waters have remained relatively free from pirate activities, which have often been attributed to the stability and governance achieved by the regime<sup>59</sup>. Therefore, this indicates that the social and political conditions in the regions where piracy is prevalent – eastern and southern coastal waters off Somalia – to some degree facilitate pirates to operate unfettered.

<sup>55</sup> International Expert Group on Piracy off the Somali Coast, 2008.

<sup>56</sup> ICC-IMB, 2005: Taiwanese fishing vessels: Zwing I No. 218, Cheng Qing Feng, Shian Lian Fa No. 36 were hijacked and anchored in Kismayo, and Miltzow carrying UN food aid was hijacked and anchored in Merca.

<sup>57</sup> Somalia Report, 2012b.

<sup>58</sup> Ibidem.

<sup>59</sup> World Bank, 2013.

The coastline of Puntland constitutes nearly half of Somalia's total coastline and its 1,300 kilometres have been the main refuge for pirates. Therefore, Puntland is often referred to as the "epicentre of piracy"<sup>60</sup>. According to a recent World Bank report, piracy in the region appears to respond to the changes in the local political landscape, as piracy would surge in areas where the rival clan held power (see Table 1). For example, the pirate activities were centred on Eyl, the pirate capital during Mohamud Musse Hersi's (Osman Mohamud clan) presidency of Puntland. However, pirate activities moved further south to Omar Mohamud territory in Garacad in 2009, following the election of President Farole (Isse Mohammed)<sup>61</sup>. The decline of Eyl as a piracy hub was attributed to President Farole's ability to leverage social and political capital through his clan<sup>62</sup>. The political clan structure in Puntland to some extent may reflect the pirate clan structure that supposedly exists. However, an alternative explanation could be that piracy in the region was simply a result of eroded state power, complicity, corruption and the absence of the rule of law<sup>63</sup>.

*Table 1. Pirate locations and associated clan connection*

LOCATION	ASSOCIATED SUB-CLAN (CLAN)
Eyl	Issa Mohamud and Leelkase (Darood)
Garacad	Omar Mohamud (Darood)
Hobyo	Sa'ad, Ayr, Suleiman (Hawyie)
Haradheere	Sarur, Ayr, Suleiman (Hawyie)
Mogadishu	Ayr (Hawyie)

*Source:* International Expert Group on Piracy off the Somali Coast, 2008, p. 17.

<sup>60</sup> Lang, 2011; World Bank, 2013.

<sup>61</sup> World Bank, 2013, p. 148. See also Table 1.

<sup>62</sup> *Ibidem*.

<sup>63</sup> International Crisis Group, 2009.

The political dynamics of south-central Somalia vary from those in Puntland, as the political powers are fragmented and divided across the region. The Galmudug and Ximan-Xeeb district are self declared semi-autonomous states<sup>64</sup>.

However, the coastal city of Hobyo has been largely contested between the administrations, in which tensions were further fuelled due to competition for scarce resources during the drought period<sup>65</sup>. This period coincides with the emergence of new pirate networks in the area which exploited the local politics and fragmentation of power to their advantage<sup>66</sup>.

Analysis of the development of piracy and the variations of pirate bases over time suggests that pirates are largely affected by the political and social conditions in the area. The pirates seem to exploit the political fragmentation in the region and the absence of governance to harbour their illicit activities. This notion is supported by the World Bank report, which concluded that the common pattern across Somalia is that when regional authorities are weak, corrupt and undermined by infighting along clan lines, pirates move in, hoping to affect the balance of power to favour their interests. However, if the political equilibrium is too fragile, pirates' operations are not feasible as the relative stability necessary is no longer present. This highlights the critical pre-conditions required for pirate operations – fragmented political structures, a degree of stability to foster operations and the absence of rule of law, which has been reflected through the changing nature of pirate locations. Across the Somali region there exists some degree of political fragmentation between clan elders, businessmen and local officials, which has fuelled the pirate business to become a criminal enterprise. The responses to piracy within these coastal ports will be further assessed in the subsequent chapter, to examine whether there is a level of complicity in piracy in these coastal towns, or whether piracy is simply a result of poor governance.

<sup>64</sup> “Galmudug emerged in 2006 and in 2008 Ximan iyo Xeeb”, World Bank, 2013; Somalia Report, 2012c.

<sup>65</sup> The cyclical drought lasted from 2009 to 2011, World Bank, 2013.

<sup>66</sup> “Mohamed Garfanji and Ahmed Fatxi emerged during the conflict period”, Ibidem, p. 149.

## 2.

## RESPONSES TO PIRACY WITHIN SOMALIA

An essential element of piracy off the shores of Somalia is the facilitation offered ashore – insecurity coupled with local politics and fragmented governance within the region has enabled pirates to operate freely in the coastal areas. In particular, Puntland has long served as the piracy capital, with the increased use of Garacad, Bandar Beyla and Eyl as anchorage bases for hijacked vessels. The region offers a conducive environment to host pirate activities and as a result there are suspicions concerning the relations between pirates and Puntland officials. The Monitoring Group has reported on senior officials in the Puntland administration, including President Farole himself, as benefiting from the pirate operations<sup>67</sup>.

However, the successive administrations have continuously denied such allegations and publicly expressed their commitment to eradicating piracy, which has involved arrests, prosecutions and efforts to strengthen their capacity. Yet the authenticity of the Puntland authorities' commitment to fighting piracy remains questionable as the administrations have repeatedly deferred and declined the proposed Monitoring Group mission to Puntland to investigate these issues<sup>68</sup>. Nevertheless, Somalian waters remain poisoned with pirates exploiting the lawlessness on sea and land fuelled by the political and territorial uncertainty between regional administrations. Therefore a land-based solution is imperative, which has been initiated by the Kampala Process and the Mogadishu Roadmap intended to enhance cooperation and coordination between regional administrations<sup>69</sup>. The initiatives

<sup>67</sup> SEMG, 2012.

<sup>68</sup> *Ibidem*.

<sup>69</sup> TFG, 2011b (Mogadishu Roadmap); TFG, 2011a (Kampala Accord); Somali Contact Group on Piracy, 2013 (Kampala Process).

have caused relative progress in prosecuting pirates within Somalia's judicial system. However, the counter-piracy efforts within the region seem to focus on punishing the perpetrators of piracy that are easily replaceable, rather than punishing those at the top of the hierarchy who bear the greatest responsibility and profit the most<sup>70</sup>. The notorious and influential pirate kingpin, Mohamed Abdi Hassan "Afweyne" was granted diplomatic status under the authorisation of Somali President Sheikh Sharif Sheikh Ahmed, which further called into question the counter-piracy approach adopted by the government<sup>71</sup>. This chapter aims to assess the efforts and challenges of counter piracy within Somalia.

## 2.1. THE MOGADISHU ROADMAP

The internationally recognised official government of Somalia, the TFG under the presidency of Sheikh Sharif Sheikh Ahmed, was a weak, inefficient government unable to expand its authority to stabilise the south and central territories of Somalia. The TFG was criticised for having no functional capacity to govern outside Mogadishu, which was entirely dependent on foreign troops<sup>72</sup>. The main pirate bases during the TFG presidency were located in places far beyond the control of the government; Eyl, Garacad, Hoboyo, Haradheere, Mogadishu and Kismayo. Therefore, piracy was able to thrive without any constraints from the TFG authority. Nevertheless, the government persisted in declaring its commitment to eradicating piracy and placed itself at the forefront in the fight against piracy by expressing its commitment to eradicating piracy, despite its limited capacity and the void of authority. However, as piracy affected the entire Somali coast it prompted coordinated responses from regional administrations to counter piracy. In 2011, the TFG was tasked to lead the process of implementing the Mogadishu Roadmap in cooperation with regional administrations in order to end the

<sup>70</sup> SEMG, 2010.

<sup>71</sup> Ibidem.

<sup>72</sup> Pham, 2011: "not a government by any common sense definition of the term: it is entirely dependent on foreign troops [...] to protect its small enclave in Mogadishu, but otherwise administer no territory: even within this restricted zone, it has shown no functional capacity to govern, much less provide even minimal service to its citizens."

transition in Somalia. The adopted roadmap considered four priority tasks to be implemented – Security, Constitution, Reconciliation and Good Governance – these also included ambitious attempts to implement a joint maritime security policy and strategy (benchmark 1b)<sup>73</sup>. However, the TFG simply lacked the capacity and legitimacy to control other regions, let alone manage the sea. Therefore, a joint maritime security policy was essential to counter the multifaceted challenges of Somalia’s territorial waters.

The TFG, Puntland and Galmudug agreed to cooperate to develop an effective maritime security and counter-piracy policy and legislation. In order to facilitate the formation of an effective maritime security policy the following requirements needed to be met: the establishment of Somalia’s EEZ; the appointment of a counter-piracy coordinator under a designated ministry; the establishment of a maritime law enforcement capacity; the adoption of an agreed and coordinated maritime strategy through the Kampala Process (which is explained in the subsequent section); initiation of development programmes for anti-piracy community engagement, linked to the coastal economic projects; capacity building within the criminal justice sector; and enactment of anti-piracy legislation<sup>74</sup>. The TFG was assigned to meet the ambitious tasks within a year, which was unrealistic. The government had failed to meet previous requisitions made by the international community; therefore the likelihood for it to implement the assigned objectives by May 2012 remained bleak. At the end of the TFG’s mandate the government was not able to meet all the objectives outlined in the Mogadishu Roadmap concerning the maritime security benchmark<sup>75</sup>.

Yet this is not the main problem. The process of rebuilding a failed state should not be driven by artificial deadlines but should be accountable, transparent and efficient in its implementation. At present, the successive federal governments of Somalia have continued

<sup>73</sup> TFG, 2011b (Mogadishu Roadmap).

<sup>74</sup> *Ibidem*; SEMG, 2011.

<sup>75</sup> Somalia Report, 2011c; Essa, 2012. “The Ministry of Defence issued a press release stating its commitment to the speedy eradication of piracy and establishment of a ‘Somali Anti Piracy Task Force to combine land, air and coastal patrolling in order to limit the pirates’ activities and to improve port security.’ However, following the press release there has been a lack of updated information and reports on the implementation of the TFG’s coast guard initiative.”

to implement some of the objectives outlined in the roadmap and enhanced cooperation with regional actors to counter piracy.

## 2.2. COUNTER-PIRACY EFFORTS

The Kampala Process – composed of the Federal Republic of Somalia, Somaliland, Puntland and Galmudug – has facilitated the joint development of a counter-piracy plan for Somalia<sup>76</sup>. The counter-piracy measures implemented thus far include the appointment of a counter-piracy coordinator – Mr Abdurizak Ahmed – established under the Puntland Ministry, the establishment of the Puntland Marine Police Force (PMPF), the implementation of an anti-piracy law in Puntland and Somaliland, and the prosecution and detention of Somali pirates within the capacities of Puntland and Somaliland<sup>77</sup>. The armed counter-piracy force PMPF, funded by the UAE government and trained by private security company Sterling Corporate Services, was established to fight piracy on land and protect Somali marine resources<sup>78</sup>. The marine force was deployed to the coastal towns of Eyl, Hafun, Iskushuban, Bargal, and the village of Hul-Anod to deter and disrupt the pirate activities<sup>79</sup>. The force made some progress in disrupting pirate activities. For example, the Panamanian-registered ship Iceberg I was hijacked in 2010 and anchored in Garacad, however, due to disagreements regarding ransom fees the crew were held captive by the pirates until the PMPF rescued them in 2012<sup>80</sup>. However, it was reported that the Puntland marine force was violating the arms embargo which resulted in the UAE abandoning the project. At present it remains unclear, officially, if the PMPF is operational and in what capacity<sup>81</sup>.

The legal framework in Somalia, Puntland and Somaliland consists of Shari'a law and customary law, Xeer, however the criminal and

<sup>76</sup> SEMG, 2011.

<sup>77</sup> UNODC, 2012.

<sup>78</sup> Meade, 2012.

<sup>79</sup> SEMG, 2012.

<sup>80</sup> Hudson, 2013.

<sup>81</sup> Somalia Report, 2011b; SEMG, 2012, p. 5; SEMG, 2012 (advanced copy – confidential): “The Monitoring Group remains deeply concerned by the operations of Sterling Corporate Services (formerly Saracen International), in northeast Somalia, and by the failure of certain Member States to take the necessary measures to prevent this sustained, large-scale violation of the Somalia arms embargo.”

procedural codes across these regions were considered out of date and inconsistent<sup>82</sup>. Therefore, the process of drafting anti-piracy legislation, prison legislation and prison transfer legislation required the formation of a Somalia Law Reform Programme Expert Group which was facilitated through the UN agencies UNODC and UNDP<sup>83</sup>. In 2010, the Puntland parliament passed an anti-piracy law based on the legislation drafted by the Law Reform Group. However, the law was not consistent with the definition of piracy as set out in UNCLOS as it did not include the financiers and stakeholders of pirate operations. In 2012, Somaliland also adopted and passed the Law for Combating Piracy (Piracy Law) No. 52/2012 and Law No. 53/2012, the prison transfer legislation, which are in compliance with the UNCLOS standard<sup>84</sup>. UNODC Counter Piracy Programme has also supported capacity building in the regional administrations to construct local prisons to hold those prosecuted for piracy. The objectives outlined focus on humane and secure imprisonment for pirates and fair and efficient trials in Somalia<sup>85</sup>. The programme has constructed and facilitated the operation of prisons in Hargeisa and Bosasso. At the time of writing the programme has transferred twenty-nine convicted pirates to Hargeisa, five convicted pirates to Bossaso from the Seychelles, and is in the process of constructing a 500-bed prison in Garowe<sup>86</sup>. There have also been recent efforts to prosecute suspected pirates in Puntland and Somaliland; it is estimated that thirty cases have been conducted in Bossaso, Garowe and Galkayo, and sixteen in Hargeisa<sup>87</sup>. However, the prosecutions conducted in Somaliland remain limited as its jurisdiction is restricted to cases affiliated with Somaliland.

During the reporting period, the Federal Government of Somalia has not adopted an anti-piracy law nor accepted transferred prisoners; the coastal economic project outlined in the roadmap has yet to be implemented. Although there have been progressive efforts within Somalia to counter piracy and to implement mechanisms to enhance cooperation and coordination between regional entities, there are sub-

<sup>82</sup> SEMG, 2012.

<sup>83</sup> *Ibidem*.

<sup>84</sup> Somaliland Law, 2012a (Somaliland Piracy Law); Somaliland Law, 2012b (Somaliland Transfer of Prisoners Law); SEMG, 2012.

<sup>85</sup> UNODC, 2012.

<sup>86</sup> *Ibidem*.

<sup>87</sup> SEMG, 2012.

stantial challenges hindering the process and the effectiveness of these measures.

### 2.3. CHALLENGES

The challenges to countering piracy within Somalia are extensive. The Kampala Process outlined the cooperation between the Federal Government of Somalia, Puntland, Somaliland and Galmudug to form a joint maritime strategy, but there have been difficulties in implementing the maritime agenda. The challenges have been the inconsistency of maritime laws across the regional administrations, and resources and jurisdiction issues – as the declared maritime domains are inconsistent with international standards. Furthermore, the Kampala Process is not an all-inclusive platform as it has isolated significant regional administrations such as Galgaduud region, including the Ahlu Sunna Waljameca and Ximan-Xeeb administrations<sup>88</sup>. Furthermore, prosecutions of pirates in Somaliland and Puntland have faced several procedural challenges which have been highlighted in Lang’s report including: delays, lack of defence counsel, lack of formal training of judges and other legal professionals, and lack of resources and properly equipped courtrooms<sup>89</sup>. There have also been a number of issues relating to the competency of conduct of investigations, lack of forensic resources, bribery and meeting international standards of fairness within these administrations. In addition, there are serious humanitarian and security concerns for the safety of prosecutors and judicial personnel, as around seven judges and prosecutors have been assassinated in Puntland to date<sup>90</sup>. Furthermore, the recent attack on the judicial complex in Mogadishu highlights the level of violence and the fragility of the state<sup>91</sup>. Therefore, there is a crucial need to confront the challenges underlined, including the enhancement of security to ensure the efficiency of capacity building. The initiatives for promoting cooperation across regional administrations must

<sup>88</sup> Federal Government of Somali Republic, 2013.

<sup>89</sup> SEMG, 2012.

<sup>90</sup> Ibidem.

<sup>91</sup> Stuster, 2013.

also be met with a more inclusive and transparent approach. The methods to overcome these challenges will be revisited in Part III.

#### 2.4. CONCLUSION

The political and social context of piracy remains significant in the developments and capability of pirates. Since 2006, pirate activities have shifted away from Merca and Kismayo, and towards Garacad, Hobyo, Harradheere and Eyl. One of the reasons for the decline of pirate activities in the south region – Merca and Kismayo – may be explained by the presence of Al-Shaabab in that region until 2012. Furthermore, the political and territorial uncertainty between regional administrations has enabled pirates to exploit the territories, as Hobyo and Harradheere are among the contested areas. The political and security gap in some coastal areas has considerably facilitated pirate activities. As mentioned previously; the fragmented political structures and a degree of stability to foster operations are pre-conditions required for pirate operations. However, the Kampala Process and the Mogadishu Roadmap attempted to overcome these factors by enhancing coordination and cooperation amongst regional administration within Somalia to effectively confront the “spoilers” who challenge their common interest. The work conducted by the PMPF seemed promising in fighting piracy on land but the lack of funding hindered the marine force efforts to suppress piracy. Furthermore, the challenges and limitations underlined illustrate that despite mechanisms being in place to counter piracy by local actors, it is a long road ahead to achieving sustained results.

PART II.

UNDERSTANDING SOMALI PIRACY

INTRODUCTION

Somali pirates have adapted and evolved over the years, as a result of counter-piracy measures applied on land and at sea. Since 2010, there has been a decline in pirate hijackings in the Gulf of Aden but an increase in hijacking in the Somali Basin and Indian Ocean<sup>92</sup>. There have been several developments in the modus operandi of Somali pirates which have expanded the scope of pirate activities. Among these developments is the use of mother-ships, variations of pirate sites, and increase in stakeholders. Part II, offers an understanding of Somali piracy and identifies essential components of the business of hijacking for ransom model.

<sup>92</sup> See Figure 1.

## 3.

## CHARACTERISTICS OF SOMALI PIRACY

Piracy in Somalia has evolved over the years and the pirates' strategies and operations have developed, adapted and responded to the measures employed by international navies patrolling the sea. The methods of Somali pirates during operations including transport and weapon preparation, target identification and hostage negotiations have steadily improved with practice and the reinvestment of funds received from ransom payments<sup>93</sup>. The characteristics of how piracy manifests itself off the coast of Somalia are distinct as operations have extended far beyond national waters into the high seas of the Indian Ocean; in 2007 the furthest attack recorded from the Somali coast was 800 km from shore, in 2009 the distance increased to 2,020 km, and to 2,200 km, in 2011<sup>94</sup>. The phenomenal growth of this criminal enterprise merits close examination. This chapter will identify the pirate leaders, pirate networks, their structures, where they operate from and the modus operandi of their operations. The final section will analyse how these pirate groups have changed and evolved over time and hypothesise on the reasons behind these developments.

## 3.1. PIRATE KINGPINS

Somali waters have been infested with pirates since the early 1990s. The principal pirate leaders identified operating during that first period of piracy were Mohamed Garaad, Farah Hisrsi Kilan "Boyah" and Abdi

<sup>93</sup> International Expert Group on Piracy off the Somali Coast, 2008.

<sup>94</sup> World Bank, 2013, p. 88.

Hassan “Afweyne<sup>95</sup>.” The veteran pirates, Garaad and Boyah, were from the coastal town of Eyl in Puntland and were both from the Darood, Majerteen clan<sup>96</sup>. They both claimed to have started their pirate activities in the early 1990s acting as coastguards protecting their territorial waters from foreign fishing trawlers<sup>97</sup>. Boyah, a former lobster diver, operated from the coastal territories of Eyl and acted as an organiser, recruiter, financier and mission commander of pirate operations in his region<sup>98</sup>. Similarly, Garaad was a fisherman from Eyl and formed his own pirate group under the title of the “National Volunteer Coast Guard” operating from Kismayo which claimed to target foreign fishing vessels in particular<sup>99</sup>. Afweyne was from Harardheere, a region with relatively little piracy before 2003 when the kingpin began operating from the Mudug area<sup>100</sup>. In 2003, Afweyne formed a pirate group, the “Somali Marines,” for which he handpicked the most reputable pirates in the region<sup>101</sup>. The veteran pirates Garaad and Boyah travelled to Harardheere to provide training for Afweyne’s group in 2003<sup>102</sup>. The Harardheere-based group shortly formed a clan alliance with the Majerteen veteran pirates Garaad and Boyah<sup>103</sup>. The hijacking of Feisty Gas marked the network’s joint entrepreneurial venture, the vessel was captured and sailed to Harardheere where it remained until a ransom of US\$300,000 was paid<sup>104</sup>.

During the first piracy period of 1996-2006, the principal pirate groups involved were mainly the veteran pirates whose activities were concentrated around the south of Somalia – Kismayo, Merca – and the north eastern region – Harardheere and Hobyo. However, the pirate networks’ activities were interrupted during the ICU regime as a result of the counter-piracy measures applied to target the Harardheere base<sup>105</sup>. The ICU efforts were effective in briefly disrupting the pirate activities, but the collapse of the regime revived the pirates’ activities. Afweyne’s

<sup>95</sup> Hansen, 2009; Murphy, 2011.

<sup>96</sup> Bahadur, 2011.

<sup>97</sup> Ibidem.

<sup>98</sup> Hansen, 2009.

<sup>99</sup> Ibidem; Murphy, 2011.

<sup>100</sup> Hansen, 2009.

<sup>101</sup> Ibidem; Murphy, 2011.

<sup>102</sup> Bahadur, 2011; Hansen, 2009.

<sup>103</sup> Hansen, 2009.

<sup>104</sup> Murphy, 2011; SEMG, 2010, p. 42. “The pirate leaders also cooperated in the August 2008 attacks on MV BBC Trinidad, MV Iran Deyanat, and MV Bunga Melati Dua.”

<sup>105</sup> Ibidem.

group continued to operate from Harardheere, however, many of the Majerteen pirates had returned to Puntland, where they continued to launch pirate operations<sup>106</sup>. In 2008, pirate attacks launched from Puntland steadily increased which coincided with the collapse of the Puntland police force. The authorities had failed to pay thousands of police officers and soldiers who went months without a salary<sup>107</sup>. The International Crisis Group reported that crime and corruption had spiralled out of control; arms smuggling, piracy, human trafficking, kidnapping and counterfeiting spread across the region. The collapse of the local police and onshore crime activities facilitated pirate operations in the region, many members of the police force could not resist the lure of easy money, and corruption amongst officials began to fester<sup>108</sup>. As Somali piracy prospered new pirate networks emerged hoping to profit from the lucrative growing enterprise<sup>109</sup>.

### 3.2. PIRATE NETWORKS AND STRUCTURES

Since 2008, the Somali maritime militants have been primarily located in the coastal areas of Puntland and central Somalia; their organisations are structured around small groups of fathers and sons with a single skiff, and larger groups of several hundred individuals<sup>110</sup>. There are fundamentally three basic ways of organising operations. The first involves a responsible group structure within which an investor functions as a leader, carrying all the costs (boats, guns, food, equipment) but also profiting most from the large portion of the ransom. The second consists of a shareholders structure in which the pirates themselves invest to meet the running expenses of the group. The third additionally includes a leader who gathers shares from local investors and hires a crew (often on commission)<sup>111</sup>. The cost of conducting pirate operations varies depending on whether it is a small-scale operation or a large-scale operation, which will determine the start-up capital required. However,

<sup>106</sup> Hansen, 2009.

<sup>107</sup> Hansen, 2012; International Crisis Group, 2009; Murphy, 2011.

<sup>108</sup> International Crisis Group, 2009.

<sup>109</sup> Hansen, 2012.

<sup>110</sup> Hansen, 2009, 2012; House of Commons Foreign Affairs Committee, 2012; World Bank, 2013.

<sup>111</sup> Hansen, 2009, p. 35.

these structures are dependent on the pirate leader being well connected and respected in the community to ensure the protection of pirate activities. Pirate leaders such as Afweyne, Mohamed Garaad, Boyah, Ciise Yulux, Abdulkadir Muse Hirsi Nur, and Abdullahi Ahmed Haji Farah (Abdi Yare) have had relative success in sustaining their piracy business as they have been able to draw upon their personal networks for protection and problem solving<sup>112</sup>.

The pirate networks are also dependent on isolated coastal territories where the pirates are able to launch operations and anchor hijacked vessels during the period of negotiating ransoms. The ability to negotiate ransoms securely from coastal ports has largely contributed to the success and longevity of Somali piracy. The ports of Laasqoray, Bosasso, Caluula, Bandarbeyla, Eyl, Kismayo and Mogadishu have at some point been identified as a significant pirate-launching site, re-supply port, or an anchorage base to facilitate the operations<sup>113</sup>. The Somalia and Eritrea Monitoring Groups (SEMG) addressed the growing significance of Garacad and Harardheere and Hobyo as the latest harbour and hostage holding ground: as operations have shifted from the Gulf of Aden to the Indian Ocean the piracy hubs are those that offer greater proximity and access to the Indian Ocean<sup>114</sup>. Since 2008, the Puntland Piracy Network (PPN) and the Hobyo-Harardheere Piracy Network (HHPN) had been identified as the most prolific pirate networks, operating from the port of Garacad and Bandarbeyla (PPN) and the Harardheere port (HHPN)<sup>115</sup>. Abdi Yare is reported to be the leader and financier of the PPN<sup>116</sup>.

### 3.3. MODUS OPERANDI

The piracy model is first and foremost profit driven, and involves hijacking vessels along with crew and cargo for ransom<sup>117</sup>. Attacks usually occur from a single skiff, other small vessel, or from a maximum of two skiffs. Each skiff usually contains between two to six pirates. As

<sup>112</sup> SEMG, 2011; Murphy, 2011, p. 119.

<sup>113</sup> SEMG, 2008, 2010; Hansen, 2009; Murphy, 2011; World Bank, 2013.

<sup>114</sup> SEMG, 2010; World Bank, 2013.

<sup>115</sup> SEMG, 2008, 2010.

<sup>116</sup> SEMG, 2011.

<sup>117</sup> Murphy, 2009b.

most attacks are opportunistic, the militants stay at sea for extended periods of time in the hope of a vessel passing. In recent years piracy tactics have evolved, with an increasing use of “mother-ships” – larger ships or dhows already pirated that can move inconspicuously at sea carrying weapons and skiffs to extend the range and endurance of operations<sup>118</sup>. Since 2010, Somali pirates have increasingly used hijacked merchant vessels as mother-ships, which have set sail from Bossaso and Mogadishu<sup>119</sup>. The ports are routinely used to resupply the mother-ship, which also facilitates pirates operating for a longer duration and in severe weather conditions<sup>120</sup>. The use of the mother-ship developed in pirate operations were a result of the presence of international naval forces in the Gulf of Aden. The international navies patrolling the high seas and the establishment of the Internationally Recommended Transit Corridor (IRTC) in the Gulf of Aden forced pirate networks to operate further away from the Gulf of Aden<sup>121</sup>. The IRTC was established in December 2008; the 480-mile corridor runs parallel to the south coast of Yemen and aims to protect the vessels transiting the Gulf of Aden<sup>122</sup>.

The common pirate weapons used during operations are in relatively poor condition, and consist of: AK-47 type assault rifles, SAR-80 and Heckler and Koch G3 assault rifles, Tokarev pistols, RPG grenades and launchers<sup>123</sup>. Other equipment includes high-power binoculars, grappling hooks and telescopic aluminium ladders. Pirates occasionally combine AIS interceptions and GPS systems to identify and track targets, or receive advanced information from “spotters” who work in Djibouti or Mombasa<sup>124</sup>.

There are large variations in hijack strategies, however the most common attacks are opportunistic as the pirates patrol the seas hunting for an easy target, usually a ship travelling at low speed (under 15 knots), with a low freeboard and without security<sup>125</sup>. Once the vessel is targeted,

<sup>118</sup> Murphy, 2011; SEMG, 2008.

<sup>119</sup> MV Iceberg, MV Motivator, MV Suez, MV Uzumi, MV York, MV Polar, MV Hannibal II, MV Yuan Xiang, MV Albedo, MV Jahan Moni, MSC Panama, MV Orna, MV Blida, MV Golden Wave.

<sup>120</sup> World Bank, 2013.

<sup>121</sup> Hansen, 2012.

<sup>122</sup> Ehrhart & Petretto, 2012a; Homan & Kamerling, 2010; Knops, 2012.

<sup>123</sup> SEMG, 2010.

<sup>124</sup> International Expert Group on Piracy off the Somali Coast, 2008; Hansen, 2009.

<sup>125</sup> Hansen, 2009; International Expert Group on Piracy off the Somali Coast, 2008. Low freeboard is the distance between the waterline and the deck.

the pirates' skiffs simultaneously attack from different directions until one of the pirates is able to board the vessel undetected. It is estimated that the entire process, from the time the pirates are sighted to boarding the vessel, takes fifteen minutes<sup>126</sup>. Once the vessel is hijacked the remaining pirates come on board and sail it towards the Somali coastline. A recent World Bank study revealed that the ship's characteristics and the location of the attack strongly predicts the success rate, as larger ships and crew are more difficult to hijack<sup>127</sup>. The hijacked vessel is then usually anchored off Puntland or south central Somalia, depending on the pirate network's operation base. As mentioned previously, the ports of Eyl, Garacad, Hobyo-Harardheere remain the most active anchorage choices. The anchorage marks the beginning of the last phase of the operation, the ransom negotiations.

### 3.4. RANSOM NEGOTIATIONS

The anchored vessel is guarded by a ground team to ensure it is secure from rival groups and rescue missions. The support networks will supply food and water for the hostages during the negotiation process. Somali pirates claim that hostages are not harmed as it would undermine their chances of ransom being paid; however, incidents of violence have been recorded during operations<sup>128</sup>. The negotiation phase includes a committee that oversees the process, usually composed of the negotiator, investor(s) and the sea and land commanders<sup>129</sup>. Pirate networks such as the PPN and the HHPN rely on the same pool of negotiators and translators to conduct ransom negotiations on their behalf<sup>130</sup>. The negotiator opens the negotiation with the shipping company which involves its insurance company, a specialised law firm, and a private security company. The negotiations between pirates and the ship-owners are lengthy; the ransom demands are initially large and are reduced accordingly<sup>131</sup>. The nationalities of the hostages, the size and type of vessel, and the number of hijacked ships held by the

<sup>126</sup> Middleton, 2008.

<sup>127</sup> World Bank, 2013.

<sup>128</sup> ICC-IMB, 2010, 2012; Van Ginkel & van der Putten, 2010.

<sup>129</sup> World Bank, 2013.

<sup>130</sup> SEMG, 2012.

<sup>131</sup> See Annex IV, b, for breakdown of typical distributions.

pirates are crucial variables to determine the final ransom payment<sup>132</sup>. The hijacking and release of MV Victoria exemplifies the procedure involved in a pirate operation:

On 5 May 2009, the MV Victoria was travelling through the IRTC of the Gulf of Aden heading towards Jeddah, Saudi Arabia. The ship was approached by a skiff loaded with eight to nine armed pirates travelling at high speed. The ship Captain took manual control of the vessel and initiated evasive manoeuvres, however the measure slowed the ship's speed down from 12.5 knots to 10 and finally to only 5 knots. At that moment the ship was under pirate attack, the first pirate boarded the ship using an aluminium ladder, followed by the remaining pirates off the skiff. The pirates identified the Captain and directed him to sail towards Eyl and all the crew members were instructed to stay on the bridge. The ship was anchored off Eyl, where the pirate attack team were replaced by the ground team which were accompanied by a commander and a negotiator. The crew and ship were anchored off Eyl for seventy-three days during the negotiation phase. The pirate negotiator communicated with the shipping company for the agreed ransom fee of US\$1.95 million, which was air dropped into the Somali waters near MV Victoria on 17 July 2009. The ship along with the Captain and crew were subsequently released unharmed<sup>133</sup>.

However, since the capture and release of MV Victoria piracy operations have seen significant developments. The hijack-ransom model has evolved dramatically over the years; the hijackings extend further into the high seas, the length of captivity of hijacked vessels extended to 397 days and the ransom amount had increased to an average of US\$5.04 million per hijacking<sup>134</sup>. The hijacking of the MV Victoria lasted seventy-three days but in the subsequent years the negotiation phase extended and increased dramatically<sup>135</sup>. The capture of the MV Iceberg I marks the longest captivity Somali pirates to date – the Panama-flagged vessel was held for a long thirty-three months (1004 days)<sup>136</sup>. The duration of captivity has raised concerns on the influence pirates hold in these territories. Protection of piracy to some extent provides an explanation, as pirates require a stable alliance of stakeholders who are willing or able or forced to provide protection against law enforcement, but this view will be revisited in the following chapter<sup>137</sup>.

<sup>132</sup> World Bank, 2013.

<sup>133</sup> SEMG, 2011, p. 211. See Annex IV, a, for breakdown of MV Victoria ransom payments.

<sup>134</sup> World Bank, 2013; Chalk & Hansen, 2012. See Annex III. Prominent Ransom Distribution.

<sup>135</sup> See Annex III for duration of captivity of hijacked vessels in 2011.

<sup>136</sup> Meo, 2012.

<sup>137</sup> World Bank, 2013.

In 2011, pirate activities hit a peak as 237 ships were attacked of which twenty-eight were successful<sup>138</sup>. The largest ransom reportedly paid that year was of the hefty sum of US\$13.5 million for the release of a Greek-owned vessel, Irene SL. The ship was reported to be carrying 2 million barrels of crude oil from Kuwait destined for the US, which allegedly accounted for 20 per cent of the US daily import volume<sup>139</sup>.

Irene was hijacked in the north Arabian Sea and was held captive for a total of fifty-seven days, during twelve of those days it was used as a mother ship. Finally, the tanker and its crew, all in good health, were released upon ransom payment<sup>140</sup>. However, the large sum paid to the pirates marks a development in pirate tactics. The Sirius Star, a Saudi-owned super-tanker also carrying 2 million barrels of oil was seized by Somali pirates in 2009, and reportedly released for US\$3 million<sup>141</sup>. The Irene SL and the Sirius Star had similar characteristics and their value was identical but the ransom amount paid for the release of Irene SL was significantly higher, which raises the question of what other factors determine the ransom payment. Following the success of Somali pirates in hijacking Irene SL; a month later another crude oil tanker was hijacked in the Gulf of Aden<sup>142</sup>. However, the tanker was hijacked just outside the IRTC through the Gulf of Aden despite the presence of the international navies in the region and the Best Management Practices applied by the Master of the ship; the pirates were not deterred nor disrupted during the hijacking<sup>143</sup>. This failure of the international navies to disrupt and prevent the attack demonstrates the gaps in security of patrolling the piracy-prone areas. The tanker was subsequently released after seventy-five days for the sum of US\$12 million<sup>144</sup>.

The modus operandi of Somali pirates remains basic, the weapons and equipment used during operations are in poor condition, however the pirates have managed to adapt and evolve over the years. The use of mother-ships has enabled pirates to extend the range and endurance of their operations. These developments of Somali piracy produced further pirate operations in the period of 2007 until 2011, which

<sup>138</sup> Oceans Beyond Piracy, 2011.

<sup>139</sup> Somalia Report, 2011a.

<sup>140</sup> *Ibidem*.

<sup>141</sup> Ibrahim & Bowley, 2009.

<sup>142</sup> European Union Naval Force, 2012.

<sup>143</sup> OCEANUS live, 2011.

<sup>144</sup> Chalk & Hansen, 2012. See Annex III. Prominent Ransom Distribution.

have subsequently increased the pirates' capital and promoted the involvement of various stakeholders in pirate activities.

### 3.5. INTERNAL STAKEHOLDERS

The previous section identified the three different approaches of organising a pirate operation: an investor that funds the entire operation, a group of investors, which collectively bear the cost of the operations, or a pirate shareholder structure in which various members of society contribute money or weapons for the pirate activity<sup>145</sup>. However, all these methods require start-up capital to fund the operations. The investors are the prime stakeholders – usually businessmen, fellow pirates or even local officials – who finance the start-up capital and receive large distributions from the ransom payments from pirate operations<sup>146</sup>. The start-up capital covers the expenses of the operation at sea and ashore, which includes the skiffs, guns, equipment, fuel and food. The estimated start-up capital per operation varies from US\$2,000 to US\$80,000, however, some of the goods and services provided during operations are financed through trade credit: in which the providers are paid a fixed sum once ransom is paid<sup>147</sup>. Therefore, the cost of pirate operations in a war-torn country is very high, which highlights the crucial role of internal stakeholders within Somalia that enable piracy to persist. Internal stakeholders provide different services to assist pirate operations, which can consist of financial sponsoring, providing favourable political environment, in which pirates can operate usually through clan protection and negotiation skills by acting as translators<sup>148</sup>. However, due to the lack of data within Somalia the enablers of piracy are often difficult to identify. Conversely, it is clear that pirate leaders and investors such as Afweyne, Garaad, Boyah, Ciise Yulux, Abdulkadir Muse Hirsi Nur and Abdi Yare have frequently invested the profits received from previous hijack-ransom operations to fund further pirate activities. Furthermore, pirate negotiators have recently been targeted by the international community for their role in

<sup>145</sup> Hansen, 2009, p. 35; Kraska, 2010.

<sup>146</sup> Somalia Report, 2011d.

<sup>147</sup> Ibidem; World Bank, 2013.

<sup>148</sup> Murphy, 2011; World Bank, 2013.

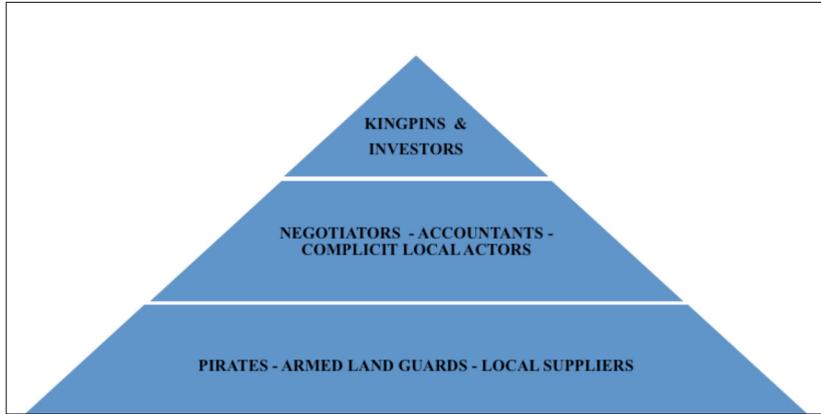
negotiating the maximum amount of ransom for the release of hijacked ships during pirate operations. A pool of fourteen pirate negotiators has been identified operating within piracy networks of whom the most important negotiators include: Ali Hassan Sharmarke, Looyan Si'id Barte, Mohamed Saaili Shibin and Ahmed Saneeg<sup>149</sup>. The negotiators are reported to receive a percentage of the ransom payments for their assistance, which are in some cases re-invested for further operations<sup>150</sup>. The principal pirate negotiator, Looyan, has frequently been employed by both of the two most prominent piracy networks, was involved in at least twenty hijacking cases and has allegedly profited by US\$500,000 for his services<sup>151</sup>.

The internal stakeholders of Somali piracy have facilitated pirate operations over the years, unfortunately the counter-piracy measures have focused on prosecuting the perpetrators and punishing those at the bottom of the piracy pyramid who are easily replaceable. Therefore, there is a need to identify the stakeholders along with the pirate leaders who command and finance the operations and sanction them for their role, as these are the individuals who bear the greatest responsibility of pirate operations. Thus, the international community has tasked the working group five of the CGPCS to coordinate efforts to counter illicit funding and financial flows related to piracy, which will be further discussed in Part III.

<sup>149</sup> SEMG, 2011.

<sup>150</sup> Somalia Report, 2012d; SEMG, 2011.

<sup>151</sup> SEMG, 2011. Looyan has been involved in the following cases; MV Longchamp, MV Malaspina Castle, MV Win Far, MV Patriot, MV Ariana, MV Victoria, MV Navios Apollon, MV James Park, MV Asian Glory, MV AL Nisr Al Saudi, MV Frigia, MV Samho Dream, MV Marida Marguerite, MV Panega, MV Polar, MV Hannibal II, MV Jahan Moni, MV Thor Nexus, MV Sinin, MV Irene SL. See Annex IV for Looyan's payment from the MV Victoria hijacking.

*Figure 2. Somali Piracy Pyramid*

### 3.6. RISKS VERSUS REWARDS

In 2005, the veteran pirates were paid US\$300,000 for the release of the *Feisty Gas* carrying liquid petroleum gas. However, six years later, pirate networks were being paid an average of US\$5 million for the release of hijacked vessels. These massive ransoms provide the motivation to endure in pirate activities; therefore it is clear that the cost-benefit analysis favours the rewards over the risks. However, there have been attempts to increase the risks involved in pirate operations at sea and land. At sea the Best Management Practice (BMP) adopted by vessels travelling in the pirate-prone areas, and the IRTC, focus on improving the security of vessels that travel through the corridor, and to optimise the use of available maritime assets present in the region<sup>152</sup>. Although these measures have contributed to the decline in successful pirate attacks, the pirates have evolved and developed their tactics accordingly to surpass the naval patrols at the high seas. Furthermore, when pirates are arrested by international naval forces the pirates are often released

<sup>152</sup> Homan & Kamerling, 2010.

due to lack of capacity to prosecute them<sup>153</sup>. The lamentable catch-and-release practice demonstrates that there are significant limitations with regard to prosecution and limits to the capabilities of the naval forces<sup>154</sup>.

However, pressure has been applied on land to disrupt piracy, which has had positive implications leading to the release of MV Iceberg I, however, the counter-piracy measures on land remain limited as a result of the lack of funding and resources. As a method to deter future stakeholders, the US has expressed a zero-tolerance policy towards pirates and their associates. In 2011, Shibin was the first pirate negotiator to be arrested by the FBI and military officials in Somalia, and was sentenced to serve ten concurrent life sentences in the US for his role in piracy, kidnapping and hostage-taking of SV Quest<sup>155</sup>. Furthermore, US Special Forces flew into Somalia in January 2012 and freed two hostages and killed nine armed pirates during the operation<sup>156</sup>.

There are significant challenges to suppressing piracy. Therefore, there is a need for a sustainable approach to combat piracy, and robust measures to target the pirate kingpins, otherwise the rewards will continue to outweigh the risks.

<sup>153</sup> Ehrhart & Petretto, 2012a.

<sup>154</sup> Ibidem.

<sup>155</sup> Somalia Report, 2012d; BBC, 2012b; Al Jazeera, 2011.

<sup>156</sup> Gettleman, Schmitt & Shanker, 2012.

## 4.

## POLITICAL ECONOMY AND CONSEQUENCES OF PIRACY

Somalia is one of the poorest countries in the world with per capita GDP estimated at less than US\$ 300<sup>157</sup>. However, Somalia has maintained a healthy informal economy, largely based on agricultural activities, the transfer of remittances from the Somali diaspora, and a service sector based around telecommunications<sup>158</sup>. The political economy of Somali piracy has generated profitable income within particular regions, for example, the pirate stock exchange has allowed ordinary Somalis to benefit from ransom payments<sup>159</sup>. The pirate stock exchange has lured local investors from the community to invest in pirate missions by providing cash, weapons or useful materials and as a result discourages potential spoilers to disrupt the pirate activities. This venture had become the main profitable economic activity in the area where locals depend on the generated output of ransom payments<sup>160</sup>. Furthermore, it is reported that the district of the pirate base gets a percentage of every ransom, which is then invested in public infrastructure, including hospitals and schools<sup>161</sup>. However, pirate activities have also had significant consequences within the pirate regions affecting the policy, economy and society as a whole<sup>162</sup>. In addition, these regions have been exposed to inflation of prices, an increase in criminality, and detriment to the fishing industry. The emergence of the piracy-driven economy has had severe implications for the region; in particular the Somali economy which was previously dependent on the export of livestock – camels and

<sup>157</sup> Shortland, 2012.

<sup>158</sup> *Ibidem*.

<sup>159</sup> Jorisch, 2011.

<sup>160</sup> Ahmed, 2009; Murphy, 2011.

<sup>161</sup> *Ibidem*. See Annex IV, b.

<sup>162</sup> Puntland Development Research Centre, 2010.

sheep – to the Gulf countries, and port operations, which had become increasingly threatened by the rise of piracy off the coast of Somalia<sup>163</sup>. The following chapter will analyse the political economy of piracy and the broader consequences of the phenomenon within Somalia.

#### 4.1. POLITICAL ECONOMY

Somalia is commonly viewed as a symbol of a failed state, political mayhem coupled with the post-colonial state in Africa has been exceptionally and deeply entrenched<sup>164</sup>. The absence of a governing Somali state removed the possibility of providing security, law and order, social and economic infrastructure for the public, leaving space for lawlessness and social disorder to fester<sup>165</sup>. The collapse of Somalia as a state has often been attributed to the wider insecurity in the region and the rise of criminality, piracy and terrorism. The long civil war fragmented the homogeneous country and significantly impacted the economy; destructing the infrastructure, industrial facilities and flows of goods<sup>166</sup>. However, regional administrations made efforts to revive the economy but were challenged by the scarcity of resources, economic hardship and the depleted fishing industry caused by the 2004 tsunami and the increase in pirate activities<sup>167</sup>. The prominent presence of pirate networks and illicit operations has been accompanied by corruption and complicity in some territories, which has challenged governance, economy and stability within Somalia. The pirate ransom offers the basis for a whole economic system in some places, with different sectors of the society benefitting from the proceeds. The ransom money is filtered through the local economy through payment for services and goods, and the consumer goods, vehicles and real estate purchased by pirates<sup>168</sup>. The political economy approach explains that where the “economic governance by a state is weak or absent, the greater is the size and the relative importance of informal and shadow economies<sup>169</sup>.” Therefore,

<sup>163</sup> SEMG, 2011.

<sup>164</sup> Ismail, 2012; according to FFP, 2013.

<sup>165</sup> *Ibidem*.

<sup>166</sup> *Ibidem*.

<sup>167</sup> Beloff, 2013.

<sup>168</sup> Gilpin, 2009.

<sup>169</sup> Anning & Smith, 2012, p. 35.

in the case of Somali piracy the absence of good governance, lack of rule of law, coupled with underdevelopment and lack of alternative economic livelihoods, has facilitated the illicit activities. Furthermore, it has also succeeded in luring the community to participate in investing in the pirate stock exchange in coastal regions, contributing to the sustainability of the shadow piracy economy. Therefore, the political economy of Somali piracy is dependent on obtaining local support for pirate activities, which is usually achieved through the financial incentive of engaging in pirate missions<sup>170</sup>.

The political economy of Somali piracy has been analysed by Dr Anja Shortland on behalf of Chatham House. Her report *Treasure Mapped: Using Satellite Imagery to Track the Development Effects of Somali Piracy* focuses on three pirate provinces: Eyl, Hobyo, and Garowe, in order to identify the effects of ransom payments on the Somali economy<sup>171</sup>. In both the fishing village and main town of Eyl, it is reported that private houses have been improved with new roofing and that a few houses had been newly constructed, developments implied to be related to piracy. Furthermore, the author reports that in Hobyo the pirates have invested in a new telecommunication facility, to facilitate their ransom negotiations. Moreover, in Garowe, the Puntland capital, pirate investment is alleged to have contributed to the rapid growth of the town with housing, light industrial and commercial developments<sup>172</sup>. Shortland concludes that the “distribution of ransom follows traditional pattern in Somalia, involving considerable redistribution and investment in urban centres rather than on coastal villages<sup>173</sup>.” The report identified that the pirate ransom had been re-invested in Somalia, however the developments seemed to be benefiting the pirates directly as “the poor are no better off in absolute terms<sup>174</sup>.”

<sup>170</sup> World Bank, 2013.

<sup>171</sup> Shortland, 2012. The report has been criticised as un-academic and full of contradictions by H.E. Saeed Mohamed Rage (Rage, 2012). For examples see Ahmad, 2012; Somalia Report, 2012a.

<sup>172</sup> Shortland, 2012.

<sup>173</sup> *Ibidem*, p. 20.

<sup>174</sup> *Ibidem*.

## 4.2. CONSEQUENCES

An alarming development of piracy is the increasing power and legitimacy of piracy within the pirate territorial areas. Pirate capital has created a favourable environment for the pirates and has contributed to a degree of complicity by local residents and officials. This involves politicians who do not interfere, clan elders who condone it, or local residents who do not oppose pirates anchoring hijacked vessels on their coastline<sup>175</sup>. Thus, in hindsight it appears that Somali piracy is supported by the coastal communities, however, they are in fact the victims of the piracy epidemic. The Somali people themselves suffer as pirates have disrupted the delivery of food aid, increased drug abuse among youths, the emergence and rise of prostitution, increased violence and harmed the fishing industry as fishermen avoid venturing into the sea in fear of being wrongly targeted by naval patrols<sup>176</sup>. The hijacking of the MV Semlow carrying food aid for tsunami survivors in Somalia had severe implications on the coastal population. The World Food Programme (WFP) temporarily suspended all shipments of humanitarian assistance until the pirates had released the detained relief food, vessel and crew<sup>177</sup>.

Another consequence of piracy was the effects it had on the cost of goods and services in the pirate regions. As the local merchants often sell food and supplies necessary to keep the hostages alive, such as sheep, goats, water, rice, fuel, pasta and milk, it results in an overall increase of prices which has had dramatic effects on the Somali population<sup>178</sup>. This view is supported by Somali officials, as pirate capital has had detrimental effects on the economy and “affects the prices of goods and services [and] the sudden influx of large amount of money increases the inflation and prices<sup>179</sup>.” The inflation of the price of goods and the influx of dollars directly affect the merchants within these coastal towns. But the decline in supplies of goods delivered to Somalia has had greater implications on the Somali economy leading to further deficits. Furthermore, a Puntland official, Saeed Mohamed Rage, reinforced this notion by stating that “while all pirate attacks threaten security and

<sup>175</sup> World Bank, 2013.

<sup>176</sup> Norwegian Church Aid, 2009; Puntland Development Research Centre, 2010.

<sup>177</sup> IRIN, 2005.

<sup>178</sup> Beloff, 2013.

<sup>179</sup> Interview with Abdillahi, Speaker of the House, Somaliland House of Representative, Hargeisa, 18 June 2013.

trade in Puntland, specific pirate attacks targeting vessels heading to or leaving the Port of Bossaso endanger Puntland's economic lifeline<sup>180</sup>." Furthermore, the pirate capital threatens the governance and institutions in place by increasing corruption and weakening governance. Therefore, there is a need to tackle the many dimensions of Somali piracy.

The implications of piracy for the Somali economy are alarming, but unfortunately this aspect has often been neglected by the international community. Despite the widespread acknowledgment of the need to invest in alternative economic livelihood projects, the implementation of these goals faces significant challenges due to security issues. There have been proposals to create alternative sustainable economic activity – port activities, fishing sector and livestock exports – which can contribute to the economy and create an environment which is not affected by piracy<sup>181</sup>. However, this requires the government and regional administrations to manage their public resources and create sustainable economic opportunities, only then will piracy be perceived as a competition to the economic and social developments in the community<sup>182</sup>. To reverse the damage caused by piracy, security must first and foremost be strengthened in order for the projects to be implemented, which can then have positive outcomes by replacing the piracy economy.

### 4.3. CONCLUSION

Piracy in Somalia has evolved and changed, what started as a small-scale business monopolised by a few veteran pirates has evolved into a criminal enterprise which has spread virally across the coast. However, the piracy business-model has nonetheless remained the same as pirates have continued to hijack vulnerable vessels for ransom. The significant developments of Somali piracy have been the increase of pirate activities in different coastal areas; the hijackings have extended further into the high seas; the length of captivity of hijacked vessels has increased and the ransom amount paid has dramatically increased. The growth of the pirate enterprise has been due to the increasing power and influence

<sup>180</sup> Rage, 2012.

<sup>181</sup> SEMG, 2011.

<sup>182</sup> Ibidem.

attained by pirates and the extensive support gained from stakeholders. The distribution of ransom across various stakeholders continue to only benefit a minority of the Somali people despite the widespread view that piracy has contributed to the economy. The need to tackle the many dimensions of Somali piracy is paramount otherwise it will continue to threaten governance, institutions and the rule of law, which will have severe impact on the future development of Somalia.

PART III.

RETHINKING THE COUNTER-PIRACY FRAMEWORK

INTRODUCTION

The Somali piracy epidemic that surged from 2008 has led to countless global, regional and local initiatives to counter piracy. The piracy phenomenon was considered a threat to world peace and security which prompted the UN Security Council to issue resolutions to tackle Somali piracy. Piracy, often described as the “enemy of all mankind,” has mobilised international organisation and navies to combat piracy through various means<sup>183</sup>. Initially the measures implemented to counter piracy consisted of deploying naval vessels and military aircraft through national naval forces and three naval coalitions operations – the EUNAVFOR-Atalanta, Operation Ocean Shield, and Combined Task Force 151 – to patrol the high seas, the Gulf of Aden, and Somali sovereign waters<sup>184</sup>. Furthermore, international vessels and ships have increasingly applied Best Management Practices and often hire armed security guards to protect the ship and crew from potential pirate attacks. The combination of military and law enforcement measures applied have to a considerable degree reduced the number of successful and attempted hijackings by containing the maritime attacks. However, in recent years maritime actors have shifted the focus onto developing land-based counter-piracy projects which most notably have been conducted through the work of the European Union (EU), United Nations Office on Drugs and Crime (UNODC), UN Development Programme (UNDP), the International Criminal Police Organisation

<sup>183</sup> Lawinski, 2008.

<sup>184</sup> World Bank, 2013.

(INTERPOL) and European Law Enforcement Organisation (EUROPOL). Furthermore, the EU through its comprehensive approach has attempted to address the causes of Somali piracy<sup>185</sup>. Moreover, there have been efforts initiated by the Somali governments and regional administrations.

The international platform has also hosted several meetings and conferences with a Somali agenda: the London Conference on Somalia, the Istanbul Conference, the Public-Private Counter-Piracy Conference in Dubai, the International Conference on African Development, and the G8. These have focused on tackling the many issues concerning Somalia, including but not limited to security, trade, economy, and politics. These platforms have also created a dialogue between multiple stakeholders in the maritime sphere. However, there are substantial gaps in the counter-piracy approach that must be addressed in order to sustain long-term solutions and suppress piracy off the coast of Somalia.

This third part of the thesis now proposes rethinking the counter-piracy approach in order to achieve long-term sustainable solutions to the piracy problem. Chapter 5 unravels the current international and Somali perception of piracy and the applied counter-piracy measures to date. Chapter 6 concludes by suggesting recommendations for the Somali government, regional actors and stakeholders.

<sup>185</sup> The EU's comprehensive approach will be discussed in this part.

## 5.

## PERCEPTIONS OF PIRACY

Piracy is internationally perceived as a threat to global peace and security, described by international actors as an enemy of mankind, *hostis humani generis*. The Security Council “condemns and deplors all acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia<sup>186</sup>.” Somali piracy had become a major issue for the world economy as 90 per cent of the world’s traded materials move by sea, and several ships travel through the Indian Ocean, the Gulf of Aden and the Arabian Sea every day<sup>187</sup>. The act of piracy has been considered a transnational crime which “scares innocent seafarers and threatens international commercial shipping and thereby international trade<sup>188</sup>.” In recent years, there have been growing concerns that piracy may pose a potential threat to international security, leading to further conflict and acts of terrorism, this wide-scale perception of piracy to some extent explains the driving forces behind the international efforts mobilised to put an end to piracy and stabilise Somalia<sup>189</sup>.

The Somali officials have echoed this view and referred to “piracy as a threat to the whole region and the world” and expressed their concerns that Somali piracy is damaging to the image of Somalia in the international sphere, and thus detrimental to the culture and traditions<sup>190</sup>. However, Somalia has been extensively criticised for not

<sup>186</sup> UNSC, 2012.

<sup>187</sup> House of Commons Foreign Affairs Committee, 2012.

<sup>188</sup> Ambassador Thomas Winkler, Chairman of the Legal Working Group of the Contact Group on Piracy, cited in van Ginkel & van der Putten, 2010.

<sup>189</sup> House of Commons Foreign Affairs Committee, 2012.

<sup>190</sup> Interview with Abdillahi, Speaker of the House, Somaliland House of Representative, Hargeisa, 18 June 2013.

taking robust anti-piracy measures to eradicate piracy, which have been further fuelled by allegations of a potential nexus between pirates and politicians. However, it is often overlooked that pirate groups operate from various territories often in remote, isolated coastal areas, where there is almost no governance, and therefore piracy is not simply confined to Puntland<sup>191</sup>. Nevertheless, there is a need to address the wider-scale security and governance vacuum within Somali territories.

### 5.1. INTERNATIONAL APPROACH TO PIRACY

There have been substantial efforts to counter piracy, initially the counter-piracy approach focused on seeking a short-term solution against piracy with its primary objective being its prevention and disruption at sea. These preventative measures focused on the methods applied by the shipping companies, flag states, industry associations, naval military forces, and private security companies to prevent and disrupt potential pirate acts. However, as the short-term measures have turned out to be extremely costly and not sustainable in addressing the root causes of piracy the international community has also invested in long-term solutions. These long-term solutions include building maritime capability on land, holding pirates accountable through prosecution, disrupting illicit financial flows and promoting a political dialogue between maritime and regional actors in order to find pragmatic solutions on land.

The establishment of the CGPCS in 2009 has aimed at creating a platform to coordinate the short- and long-term approaches to piracy and also to address the multifaceted dynamics of Somali piracy. The CGPCS is a voluntary cooperation among states and organisations engaged in, or with an interest in, countering piracy off the coast of Somalia; the organisation is divided into five working groups<sup>192</sup>. These focuses on operational matters and capacity building (WG1), legal issues (WG2), cooperation with maritime industry (WG3), communication and public diplomacy (WG4), and investigations concerning illicit financial flows (WG5)<sup>193</sup>.

<sup>191</sup> Puntland has often been referred to as the “pirate sanctuary”; Hansen, 2009; World Bank, 2013; Murphy, 2011.

<sup>192</sup> Contact Group on Piracy off the Coast of Somalia, 2013.

<sup>193</sup> *Ibidem*.

### 5.1.1. *Short-term Measures*

The international community has expressed its grave concerns over the “threat that acts of piracy and armed robbery against vessels pose to the prompt, safe and effective delivery of humanitarian aid to Somalia, the safety of commercial maritime routes and to international navigation<sup>194</sup>.” UN Security Council Resolution 1816 urged all states to respond to the increasing threat of Somali piracy and since then there have been several short-term measures applied to immediately countering piracy at sea. These efforts include, but are not limited to, naval military operations policing the high seas and occasionally escorting vessels of the WFP, the establishment of the IRTC and escorted convoys, the adoption of Best Management Practice by the shipping industry and the deployment of armed security personnel<sup>195</sup>. The combination of anti-piracy measures applied by the international maritime actors has been attributed to the recent drop in successful pirate attacks<sup>196</sup>.

The presence of naval military operations in the high seas has been led by EUNAVFOR, NATO and the Combined Task Force 151 (CTF 151) as part of the preventative measures. The coalition of forces has taken a lead role in policing the high seas with the main aim of deterring, repressing and disrupting pirate activities. NATO’s Operation Allied Provider, on the request of UN Secretary-General Ban Ki-moon, was among the first naval military forces tasked with providing escorts to WFP vessels transiting through the piracy-prone areas<sup>197</sup>. The mission ended in late 2008, and transitioned WFP protection responsibilities to the EU Operation Atalanta<sup>198</sup>. NATO had since launched Operation Ocean Shield, which principally focuses on at-sea counter-piracy operations and its primary objective is to deter and respond to piracy<sup>199</sup>. NATO warships and aircraft patrol the waters off the Horn of Africa in order to counter Somali piracy and also to participate in capacity building efforts with regional governments upon request, however thus far this has been limited<sup>200</sup>. At present, the NATO operation has

<sup>194</sup> UN Secretary-General, 2009.

<sup>195</sup> Homan & Kamerling, 2010; House of Commons Foreign Affairs Committee, 2012.

<sup>196</sup> See Annex II. Piracy Statistics.

<sup>197</sup> Homan & Kamerling, 2010; House of Commons Foreign Affairs Committee, 2012.

<sup>198</sup> *Ibidem*.

<sup>199</sup> Homan & Kamerling, 2010.

<sup>200</sup> NATO Maritime Command, 2013; Knops, 2012.

been confined to the high seas off Somalia, and although its mandate includes operating in Somalia's territorial waters it excludes operations on Somaliland<sup>201</sup>.

EUNAVFOR launched its Operation Atalanta at the end of 2008; as mentioned previously the operation was initially tasked with the protection of the WFP vessels but the extended mandate included: "the protection of AMISOM shipping and vulnerable shipping off the Somali coast" as well as "monitoring of fishing activities" and "the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast<sup>202</sup>." As part of the extended mandate the forces were able to disrupt the pirates' logistic dumps on Somali shore, which were aimed at denying pirates impunity ashore, and by increasing costs and decreasing their capability<sup>203</sup>. Furthermore, the Atalanta forces were to arrest, detain and transfer persons who had committed or who were suspected of having committed acts of piracy<sup>204</sup>. The EU at present has prison transfer agreements with the Seychelles, Mauritius and Kenya on a case-by-case basis<sup>205</sup>.

CTF 150 is a multinational naval task force, which was established in 2002 in order to fight terrorism and conduct maritime security operations in the Gulf of Aden, the Gulf of Oman, the Arabian Sea, the Red Sea and the Indian Ocean<sup>206</sup>. The US-led CTF 151 was established in 2009 with a specific piracy-based mandate, its sole mission was to conduct counter-piracy operations in the region through actively deterring, disrupting and suppressing piracy, and the forces act on the legal basis of UN Security Council Resolution 1851, which permits the use of force on land<sup>207</sup>.

The three multi-national maritime missions under the respective leadership of the EU, the US and NATO are responsible for the surveillance of the IRTC which was established by the EU in December 2008. The 480-mile corridor runs parallel to the south coast of Yemen and aims to protect vessels transiting the Gulf of Aden<sup>208</sup>.

<sup>201</sup> *Ibidem*.

<sup>202</sup> European External Action Service, 2012; Ehrhart & Petretto, 2012a-b.

<sup>203</sup> European Union Naval Force, 2012.

<sup>204</sup> Ehrhart & Petretto, 2012a.

<sup>205</sup> European External Action Service, 2012.

<sup>206</sup> Ehrhart & Petretto, 2012a; Homan & Kamerling, 2010.

<sup>207</sup> *Ibidem*; Knops, 2012.

<sup>208</sup> Ehrhart & Petretto, 2012a; Homan & Kamerling, 2010; Knops, 2012.

Moreover, there has been extensive deployment of military vessels under national command to counter piracy in order for states to protect their trade and international shipping. Most notably, Russia, China and India have deployed warships to the piracy-prone areas but so have also Australia, Bahrain, China, Egypt, Iran, Japan, Jordan, Pakistan, Saudi Arabia, Seychelles, Singapore, South Korea, Thailand, Ukraine and Yemen<sup>209</sup>. There were even discussions amongst the Arab countries to establish an Arab Task Force in an effort to suppress piracy from spreading to the Red Sea and with the potential threat of Somali piracy disrupting the countries' oil and gas exports<sup>210</sup>. Although, these specific efforts were not followed through, the Arab countries have supported counter-piracy operations through other means, which are discussed in the subsequent section.

Another counter-piracy measure applied in response to the Somali piracy surge was the adoption of BMP by the shipping industry with the support of the IMO and counter-piracy authorities<sup>211</sup>. The BMP are guidelines to assist ships to avoid, deter or delay piracy attacks in the high-risk areas<sup>212</sup>. The fourth publication of the BMP for protection against Somali-based piracy provides detailed information on pirate attacks and suggests the appropriate response in the case of a pirate attack<sup>213</sup>. It is assumed that conforming to the BMPs lowers the risk of being hijacked<sup>214</sup>.

There has in recent years been an increase in private armed security guards on board ships as part of the deterrence method to fill the security gap in naval counter-piracy operations. It is estimated that a large proportion of the total 40,000 vessels travelling through the piracy-prone areas are deploy with armed security personnel<sup>215</sup>. The use of private armed security guards had been a contentious issue raising legal, practical, and ethical concerns yet it has become increasingly accepted to deploy the additional security personnel. As a result of this growing trend the IMO published an interim guidance for the use of armed security guards<sup>216</sup>.

<sup>209</sup> *Ibidem*.

<sup>210</sup> Al-Musharrakh, 2012.

<sup>211</sup> World Bank, 2013.

<sup>212</sup> House of Commons Foreign Affairs Committee, 2012.

<sup>213</sup> UK Maritime Trade Operations, 2011.

<sup>214</sup> World Bank, 2013.

<sup>215</sup> *Ibidem*; Oceans Beyond Piracy, 2011.

<sup>216</sup> World Bank, 2013.

### 5.1.2. *Challenges*

Since 2008, the international naval forces have succeeded in deterring and disrupting approximately 345 pirate attacks in the Somali Basin, the Gulf of Aden (incl. IRTC) and the Arabian Sea<sup>217</sup>. However, despite the progressive efforts applied by the international maritime actors significant challenges still lie ahead. Firstly, Operation Ocean Shield and CTF 151 missions are both limited in their ability to arrest and detain captured pirates as there is a lack of a Memorandum of Understanding (MoU) with countries in the region with the regard to prosecuting pirates<sup>218</sup>. Therefore, the principle of “catch and release” is often applied in the cases where suspected pirates are caught by the NATO, EU and US forces. Furthermore, although the mandate of US and NATO includes capacity-building efforts with regional authorities the initiative has been significantly limited. Secondly, the deployment of armed security guards has raised several humanitarian concerns. Although there was guidance on the appropriate conduct of security personnel several legal uncertainties remain: flag and port state regulations on the carriage and transport of weapons, the degree of appropriate use of force and compliance with applicable rules and legislations are only a few examples of the challenge of armed security personnel<sup>219</sup>. Furthermore, the presence of security personnel may lead to an escalation of violence and encourage pirates “in acts of desperation, to arm themselves more<sup>220</sup>.”

The measures applied by the shipping industry and the international military forces have to a certain degree contributed to the decline in Somali pirate attacks, nonetheless these measures are only short-term solutions to repressing piracy as the use of armed security personnel may be suspended in the near future, and the EU and NATO mandates are due to end in December 2014. Therefore, it is ever more crucial to invest in long-term sustainable solutions for counter piracy in Somalia.

<sup>217</sup> NATO Maritime Command, 2013. See Annex II. Piracy Statistics.

<sup>218</sup> Homan & Kamerling, 2010.

<sup>219</sup> Dutton, 2013.

<sup>220</sup> House of Commons Foreign Affairs Committee, 2012, p. 21.

### 5.1.3. *Medium and Long-term Measures*

The international and regional actors have hosted several meetings and conferences aimed at proposing and implementing long-term sustainability for Somalia, achieving peace and security and finding on-land counter-piracy solutions<sup>221</sup>. This section will address the work conducted and projects underway from the EU, UNODC, UNDP, EUROPOL and INTERPOL.

The EU has attempted to address the multi-faceted challenges of piracy through a comprehensive approach, which aims at tackling both symptoms and root causes of the problem<sup>222</sup>. Humanitarian aid, development cooperation, political dialogue and crisis management, including efforts to counter piracy, have been the main pillars of the EU's engagement towards Somalia<sup>223</sup>. The EU's comprehensive approach to piracy has thus far focused on international judicial cooperation to end impunity and on building regional maritime capacities. The prosecution, trial and detention of piracy suspects have taken three forms: prosecuting pirates in EU member states, assisting the UNDP and UNODC efforts in establishing piracy trials in Somalia, and supporting the joint EU/UNODC programme aimed at providing practical assistance to cope with the extra demands associated with the protection and detention of piracy suspects in regional states – Kenya, Seychelles and Mauritius<sup>224</sup>. The work on building regional maritime capacities is underway, the EUCAP NESTOR aims to assist states in the “Horn of Africa and the Western Indian Ocean, including Somalia, to develop a self-sustainable capacity to enhance their maritime security and governance, including judicial capacities<sup>225</sup>.” The planned mission has two main tasks: to strengthen the maritime capacities of Djibouti, Kenya, Tanzania and the Seychelles, and to strengthen the rule of law sector, initially in the Somali regions of Puntland and Somaliland, notably by supporting the development of a Coastal Police Force<sup>226</sup>. It has been reported that there is already a project funded by the UAE

<sup>221</sup> Foreign & Commonwealth Office, 2012, 2013; Republic of Turkey: Ministry of Foreign Affairs, 2012.

<sup>222</sup> European External Action Service, 2012.

<sup>223</sup> Ehrhart & Petretto, 2012a.

<sup>224</sup> European External Action Service, 2012.

<sup>225</sup> European External Action Service, 2011.

<sup>226</sup> European External Action Service, 2013.

to support the local maritime forces, PMPF. However, as mentioned previously, it remains uncertain whether the maritime enforcement is still active and under which capacity<sup>227</sup>.

The EU has also other projects, such as Maritime Security and Safety (MARSIC), which focus on capacity building and training maritime administration staff, officials and coastguards from the regions – Somalia, Puntland and Somaliland – and setting up a regional training centre for maritime affairs<sup>228</sup>. The regional Maritime Security Programme (MASE) was adopted in 2010 in Mauritius to fight piracy, however the EU intends to extend the project and develop a strategy to tackle piracy on land in Somalia, which should be operational early this year, aiming to: “enhance judicial capabilities to arrest, transfer, detain and prosecute piracy suspects; address economic impact and financial flows related to piracy; and improve national and regional capacities in maritime security functions, including surveillance and coastguard functions<sup>229</sup>.” The final project of the EU focuses on the fight against IUUF in the Indian Ocean, the SmartFish programme that is underway aims to increase the level of social, economic and environmental development and deepen regional integration in the Indian Ocean, with a particular focus on the Somali fishing industry<sup>230</sup>.

The UNODC has undertaken extensive work in counter piracy; Chapter 2 addressed the agency’s role in supporting the establishment of local prisons and capacity building in the regional administrations to hold prosecuted prisoners. UNODC’s initial mandates focused on supporting Kenya in managing the increase of Somali pirates in Kenyan prisons. The mandate has since extended to support Somalia and regional states and has continued to support the criminal justice professionals of states in the region that are dealing with Somali piracy<sup>231</sup>. This has been conducted through reviewing the legal framework of Kenya, Mauritius, Seychelles and Tanzania, and assessing the adequacy for meeting the

<sup>227</sup> SEMG, 2012, p. 5; SEMG, 2012 (advanced copy – confidential): “The Monitoring Group remains deeply concerned by the operations of Sterling Corporate Services (formerly Saracen International), in northeast Somalia, and by the failure of certain Member States to take the necessary measures to prevent this sustained, large-scale violation of the Somalia arms embargo.”

<sup>228</sup> *Ibidem*.

<sup>229</sup> European External Action Service, 2013.

<sup>230</sup> *Ibidem*; Indian Ocean Commission, 2011.

<sup>231</sup> UNODC, 2013.

demands of prosecuting piracy within these regional states<sup>232</sup>.

The UNDP has also worked towards finding a sustainable solution for Somalia. Its work focuses on: governance, rule of law and security programmes. The programmes aim to achieve: capacity building for peace and human security, strengthened governance and rule of law institutions, systems, practices and services and gender equality<sup>233</sup>. The UNDP Rule of Law and Security programme (ROLS) takes an institutional (top down), and community (bottom up) approach which focuses on providing access to justice, community security and to benefit the police force<sup>234</sup>. The work of the UNDP confronts some of the local conditions that allow piracy to flourish unfettered; therefore the success of the programmes may have positive implications for the effectiveness of countering piracy on land.

EUROPOL and INTERPOL aim to disrupt or dismantle the illicit financial flows that underpin the piracy business model. The agencies work closely together, cooperating, collecting and analysing data on piracy cases<sup>235</sup>. The INTERPOL Maritime Task Force has also worked with the police, the military, and the private sector in member countries and other international and regional organisations to improve evidence collection which facilitates and encourages information exchange, and to build regional investigatory capabilities<sup>236</sup>.

## 5.2. SOMALI APPROACH TO PIRACY

Chapter 2 outlined the measures implemented by the Somali administrations to counter piracy and its challenges. In summary, the ICU regime was among the first to take robust action on land, which briefly disrupted the main pirate sites, however the regime's efforts were short-lived as a result of the Ethiopian intervention<sup>237</sup>. Since then the Mogadishu Roadmap and the Kampala Process have attempted to counter piracy on land. However, the local efforts applied by the regional administrations within the framework of the Mogadishu Roadmap and

<sup>232</sup> Oceans Beyond Piracy, 2012.

<sup>233</sup> UNDP Somalia, 2013.

<sup>234</sup> Ibidem.

<sup>235</sup> World Bank, 2013; European External Action Service, 2012.

<sup>236</sup> INTERPOL Factsheet, 2012.

<sup>237</sup> Hansen, 2009; World Bank, 2013.

the Kampala Process have had limited success in establishing counter-piracy programmes<sup>238</sup>. However, the Puntland administration has engaged in counter-piracy operations and established the PMPF, which carried out the successful release of the MV Iceberg I and captured pirate leader and investor Boyah<sup>239</sup>. There have also been campaigns and increasing pressure applied by the elders and the local community to drive out forces in their areas – Eyl, Galmudug and Bargal – as the pirate presence had adversely affected the fishing activities. In January 2013, the kingpin of pirates, Afweyne, publically renounced piracy and urged other pirates to follow his retirement<sup>240</sup>. There has also been a recent development in which President Hassan Sheikh Mohamud has granted amnesty to young Somali pirates in an attempt to end the hijackings of merchant vessels, however this initiative has been considerably criticised for granting impunity to perpetrators<sup>241</sup>.

### 5.3. LESSONS LEARNED

The measures implemented by the international, regional and local actors to combat Somali piracy have highlighted the progressive success some of the measures have had in counter piracy. However, there are many lessons to be learned from the methods applied thus far. Firstly, the presence of military naval vessels has contained piracy in the Gulf of Aden; nevertheless, the pirates have adapted their strategies by targeting vulnerable ships further into the Indian Ocean, indicating that pirates continue to look for opportunities that remain uncovered. Furthermore, the mandates of the EUNAVFOR and NATO are due to expire at the end of 2014, which raises concerns whether the agencies have an exit strategy planned or if they intend to extend their mandates. Although the EUCAP NESTOR intends to build regional capability to counter piracy, the mission is not yet operational and the project's mandate is restricted at present for two years, which raises concerns whether two years is sufficient to conduct such an immense task. Furthermore, if the PMPF is still operational the force faces significant challenges in

<sup>238</sup> World Bank, 2013.

<sup>239</sup> Ibidem; Somalia Online, 2010.

<sup>240</sup> World Bank, 2013; Anyimadu, 2013.

<sup>241</sup> Sheikh, 2013.

resources, logistics and capacity, and is not able sufficiently to replace the work conducted by the international maritime forces. Another concern is where the captured pirates should be detained. Although Somalia and its regional administrations have convicted pirates there are substantial limitations, as listed in Chapter 2.

Another lesson to be learned thus far is that the regional administrations within Somalia have acknowledged that the local conditions have produced a favourable environment for piracy despite local efforts to suppress the pirate activities. As Murphy highlighted in his work, the factors that encourage piracy lessen the risk of capture and help protect pirate capital<sup>242</sup>. Therefore, the local conditions which have facilitated piracy, such as the lack of governance in remote areas, the permissive political environment in some pirate territories, and the lack of law enforcement, both coastal and on land, must be addressed. The various administrations have expressed their willingness to counter piracy through the Kampala Process and the Mogadishu Roadmap; however, there is a need for concrete action across the coastal territories. In addition, the process must be inclusive, taking into account emerging regional administrations which have not been accounted for in either initiative.

Part I addressed the limitations presented by the lack of recognition of Somalia's EEZ, this must be tackled in order to ensure the efficiency of the proposed SmartFish programme. It should, therefore be amongst the highest priorities of the Somali governments.

The work of the UNDP focusing on the rule of law, security and governance can be fundamental in countering piracy and providing security and good governance within Somalia. However, due to limited data on the progress and achievement of the programme, it is difficult to review the effectiveness of the UNDP's work and to suggest lessons to be learned. However, it is noticeable through analysing the piracy structure and operation sites that there is a substantial lack of good governance; therefore, one measure would be to promote a degree of governance in the neglected coastal areas through elders, civil society organisations, etc. There are many lessons to be learned in finding a pragmatic sustainable solution for Somalia and piracy, the measures applied by international, regional and local actors and the maritime

<sup>242</sup> Murphy, 2009b.

organisations are commendable but there is room for improvements. The following chapter will assess plausible solutions for Somali piracy which aim to complement the priorities of the Somali government and regional administrations and which should be implemented by local Somali actors but with the assistance of the international community.

## 6.

## RE-THINKING THE COUNTER-PIRACY APPROACH

This thesis has described the several shortcomings of suppressing piracy off the coast of Somalia. This has led to the widespread agreement that Somali piracy needs a land-based solution. International and regional actors have attempted to address this necessity through capacity-building projects in the region. However, to sustain long-term results in counter-piracy strategies requires Somali ownership to address the piracy challenge. The initiatives thus far have been led by foreign actors but there is a need for a paradigm shift. Somali actors must be at the forefront in the counter-piracy process; however, this requires first and foremost a consensus amongst various stakeholders for the commitment and willingness to deal with the problems of piracy. At present counter-piracy strategies have focused on the political officials to implement a common maritime approach through formal mechanisms such as the Kampala Process. Moving forward, there is the need for an all-inclusive approach and the involvement of other actors such as businessmen, elders, religious clerks and civil actors, as the informal governance structures in Somalia is dependent on the participation of these actors. However, this requires a shared interest and consensus amongst actors in order to establish a maritime law enforcement and security, rule of law, good governance and economic growth. This chapter proposes a framework on how to address the piracy problem from a Somali perspective.

## 6.1. GOOD GOVERNANCE

Absence of good governance, and experience with a repressive state, have made Somalis suspicious of government<sup>243</sup>.

In Somalia, there is a great deal of public mistrust and the state is often perceived as “an instrument of accumulation and domination, enriching and empowering those who control it and exploiting and harassing the rest of the population<sup>244</sup>.” Therefore, promotion of good governance within Somalia is challenging to say the least. The first question that arises is which actors should be responsible for governance in the region. The presumption that the state should be the driving force of governance, law and order, is uncommon in Somalia. Rather, informal governance structures have established a degree of stability in the region. Therefore, in order to achieve good governance within Somalia, the role of informal governance structures must not be overlooked. Thus, this thesis would suggest that in order to achieve good governance in Somalia, it is first necessary to have a level of governance across the region, especially in the isolated coastal areas where the pirates have a strong hold. Furthermore, this should also involve all levels of society: businesspersons, elders, local officials, youth, and civil actors through a community-based approach. The most compatible way to enhance good governance must be decided by the Somali actors themselves but it is recommended that the process be transparent and inclusive, in order to reverse the damage caused by the former President Siad Barre’s repressive regime<sup>245</sup>.

## 6.2. RULE OF LAW

The UN Secretary-General defines the rule of law as:

a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law,

<sup>243</sup> World Bank, 2005, p. 18.

<sup>244</sup> Murphy, 2011, p. 63.

<sup>245</sup> For a historic account of Somalia, see Lewis, 2011.

equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency<sup>246</sup>.

This definition outlines the prerequisites of the rule of law; institutions and entities, which are accountable to laws that are promulgated. The difficulty that arises in the application and enforcement of the law within Somalia is that it depends on the state, institutions and entities to be accountable and to enforce the law. However, Somalia is politically fragmented and lacks sufficient formal institutions such as prisons, judiciary, and police to strengthen the rule of law. Furthermore, piracy, insurgency and criminality have been major impediments to the rule of law and enforcement of law within Somalia, which continues to obstruct stability in the region. The work of UNODC and UNDP, as mentioned in the previous chapter, has focused on capacity building within each of these sectors to ensure accountability and rule of law. However, these efforts continue to focus on the urban areas and not the isolated coastal areas where pirate activities are concentrated. Furthermore, UNODC and UNDP work is severely affected by instability, as judiciary staff have been victims of violence and in extreme cases assassinated, therefore, it's crucial to provide adequate protection to judiciary staff<sup>247</sup>.

First and foremost Somalia needs to establish and improve its existing law enforcements institutions (judicial system, custodian corps, and the police force) across all districts. Secondly, there is a need to sufficiently protect the judiciary staff to ensure the efficiency of UNODC and UNDP projects and to avoid reversing the progress made thus far. Furthermore, the government should encourage and incentivise local elders, religious clerics, businessmen, and civil actors to be at the forefront of enforcing the rule of law in these areas. There is the capacity of Somali communities to assert some degree of law and order through traditional authority and customary law, yet there needs to be a shared interest among the community. Once a consensus has been reached, going forward, the coastal communities and relevant actors should be supported by regional administrations.

<sup>246</sup> UN Secretary-General, 2004.

<sup>247</sup> Lang, 2011.

### 6.3. MARITIME LAW ENFORCEMENT AND SECURITY

The Kampala Process offers a platform for local actors to engage and cooperate in implementing a joint maritime and security strategy. Thus far, there is a need to develop a maritime security capacity. Somali waters remain in a state of lawlessness, as there is an absence of a cooperative and coordinated maritime authority and security policy. However, the question that then arises is how and by whom Somalia's waters should be administered; the fragmented political landscape is divided by different and often competing regional administrations and entities<sup>248</sup>. The Kampala Process has included the actors which have agreed at the outset to approach the issue at a technical level and consciously set aside the political context. However, there are significant actors excluded from the process, such as Islamist factions that have a strong hold in some areas within Somalia, and entities in the Galgadud region; the Ahlu Sunna Waljameca and Ximan-Xeeb administrations<sup>249</sup>. Furthermore, the platform should also include elders and civil actors who have influence in the coastal areas, as the regional administrations have limited influence and governance in remote coastal areas<sup>250</sup>. This reformed process would therefore, allow accountability and legitimacy among various stakeholders. Moving forward, the actors could establish mutual duties and responsibilities in order to implement coordinated and cooperated maritime law enforcement and security within Somalia. To further advance public security, it is recommended that local communities to form neighbourhood watch forces and that the established maritime police forces to establish partnerships within these local communities.

### 6.4. ECONOMIC GROWTH

There is a need to engage in programmes that build sustainable livelihoods and which create alternative employment opportunities

<sup>248</sup> Stockbruegger, 2011.

<sup>249</sup> For further information on local administrations and entities within Somalia, see Federal Government of the Somali Republic, 2013.

<sup>250</sup> Stockbruegger, 2011. The Ahlu Sunna Waljameca and Ximan-Xeeb administrations have limited and even non-existent influence in coastal areas.

and economic activities. As pirate leaders have taken advantage of the underdevelopment, poverty and lack of legitimate employment opportunities to recruit jobless youth into the criminal enterprise. Furthermore, pirates have succeeded to lure the community to participate in investing in the pirate stock exchange in coastal regions which have contributed to the sustainability of the shadow piracy economy. As Somalia's economic growth has largely been driven by the services provided by the private sector, the final recommendation would encourage the role of private sector to continue to promote economic growth which can provide opportunities for all and leading to employments, innovation, and tax revenues that are needed for public services. Furthermore, to promote other Somali actors in the diaspora to engage in sustainable livelihood programmes to increase economic growth. The diaspora community overseas have recently invested substantially within Somalia. Projects such as the World G18 Somalia, a diaspora network, which intend to initiate a programme tailored to: education, health, agriculture and employment services, in coastal villages affected by piracy, such initiatives are to be welcomed and encouraged amongst Somalis<sup>251</sup>. However, the government and regional administrations must also manage their public resources in order to sustain and create economic opportunities.

## 6.5. CONCLUSION

The international community's concerns about the safe and secure access to the high seas off the coast of Somalia had mobilised efforts to combating piracy using military and naval capacities. These efforts have managed to significantly contain and suppress Somali piracy. However, despite the recent drop in successful pirate attacks the international community has continued to address the challenges of Somali piracy through a comprehensive approach, as the actors comprehend the importance of addressing the root causes of piracy. The Somali momentum has led international, regional and Somali actors to seize the opportunity to establish diplomatic relations and to address wider-scale issues concerning security, economy, and trade to list a few. These

<sup>251</sup> World Bank, 2013.

positive developments can greatly benefit Somalia's stance in the global sphere; however there are concerns that with so many actors involved in Somalia risk diverting the attention away from the needs and priorities of the Somali people. Therefore, it is necessary to allow Somali people themselves to decide the approach and framework required to achieve stability and prosperity for their future. The recommendations proposed in this thesis serve only as an alternative guideline on how Somali people themselves can counter piracy in their own country.

## DATA ANALYSIS

This thesis aimed to understand the piracy phenomena in the Horn of Africa, from a Somali perspective. The thesis examined the factors which have facilitated Somali piracy to thrive and took into consideration the constraints which face the country. The data used – United Nation publications on Somalia, official documents, reports, press releases and communiqués of the Republic of Somalia and regional administrations – provided an insight into the challenges concerning Somalia in general and the official position of the international and Somali actors concerning piracy off the coast of Somalia. The secondary literature laid the groundwork for analysing the phenomena of piracy; in particular the work of Murphy and Hansen, who has interviewed Somali pirates, provided an understanding of the environment of pirates and their modus operandi. There are of course limitations in the methodology used as the thesis focused on the phenomena of piracy within Somalia which would require land-based research in order to truly grasp the impact piracy has within the country and the relation pirates have with local officials, elders, businessmen and the community. However, this thesis has extensively referred to official Somali reports, Somali news and reports, institutes and non-governmental organisation based in Somalia and complemented the data with an interview with an official Somali representative – Abdirahman Mohamed Abdillahi – to counter this challenges.

The focus of this thesis was to address the research questions outlined in the introduction. The formulated research questions addressed: How does piracy function within Somalia? To what extent, is piracy perceived a threat within Somalia? How can the challenges of piracy be solved?

The Political and Social Context and Understanding Piracy chapters described the factors that have facilitated piracy to flourish.

These factors are embedded in Somalia's political and socio-economic conditions. Pirate networks have exploited the security vacuum in the isolated coastal areas to organise and launch pirate attacks, and have taken advantage of the underdevelopment, poverty and lack of legitimate employment to recruit pirate soldiers, and even manipulated the coastal communities to invest in pirate stock-exchange to fund their illicit operations.

To what extent is piracy perceived a threat within Somalia was addressed in Part III, analysing the official documents released by Somali regional states and complemented with a qualitative interview with an official Somaliland representative from the Somaliland House of Representative has led to the conclusion that piracy to some extent is considered an international threat. Puntland officials have stated that pirates threaten security and trade in Puntland, by targeting vessels in the port of Bossaso. Furthermore, the Somaliland representative has also expressed concerns of pirates having influence over the local authority and fear of pirate activities spilling over and potentially affecting the Somaliland area.

Furthermore, Part III, provided guidelines and recommendations of how piracy could be solved from a Somali perspective by focusing on key factors that have been attributed to the growth of piracy.

The hypothesis stated earlier in the thesis that "piracy is not a significant threat within Somalia," has been partially confirmed. Somali officials have stated continuously during press conferences, international meetings and in reports that piracy is a threat to the whole region and the world. Furthermore, it has been noted that local actors have taken initiative to suppress piracy by supporting the work of international actors and the recent counter-piracy operations driven by the Puntland administration. However, the requirements outlined in the Mogadishu Roadmap – security benchmark – have still not been implemented. Furthermore, the objectives outlined in the Kampala Process have yet to be put into practise. Therefore, if piracy constitutes as a significant threat within Somalia, it would be presumed that these objectives would have been implemented immediately. This notion is further fuelled by the national priorities outlined by the Federal Government of Somalia as it rightly focus on creating stability in the country, economic recovery, and improving the capacity of the government to respond to the needs of its people. There is of course the priority of removing the main drivers of conflict but these "spoilers" are not limited to pirates. Of course,

this thesis takes into account the many challenges Somali actors face in establishing and enforcing a maritime security policy and strategy. However, the thesis that piracy is not a significant threat within Somalia to some degree has been verified, as it seems that Somali piracy is more of a nuisance than a threat. Nevertheless, the thesis has shed some light on the constraints facing Somalia, and has highlighted the fragility of governance structures and the absence of the rule of law in pirate areas that have facilitated piracy to thrive.

This thesis has placed great emphasis on the necessity of the rule of law and good governance to counter piracy, this view is supported by several authors, for example Ken Menkhaus. In Menkhaus article on “Governance without Government” he explains that what sets Somaliland apart from south-central Somalia is a very strong commitment by civil society to peace and rule of law, which serves as a “strong deterrent to would-be criminals, warlords, and politicians tempted to exploit clan tensions from violating the basic rules of the game<sup>252</sup>.” Somaliland has been successful in suppressing piracy because of civil society’s commitment to rule of law and the existence of functioning administrations and institutions in place to deal with piracy challenges<sup>253</sup>. Therefore, it is important that the civil society across Somalia to be at the forefront of counter piracy as their commitment to suppressing piracy will most likely have long-term sustainable results which can lead to good governance and peace. The literature used in this thesis, in particular the UN Security Council reports, Murphy, Menkhaus, and Ehrhart and Petretto, have emphasised that Somali piracy must be addressed and confronted from within Somalia and this thesis has reinforced this notion. Furthermore, the thesis adds that all Somali actors must be included from grass-root organisations to political leaders through a community-based approach to sufficiently address piracy.

<sup>252</sup> Menkhaus, 2007, p. 93.

<sup>253</sup> Interview with Abdillahi, Speaker of the House, Somaliland House of Representative, Hargeisa, 18 June 2013.

## CONCLUSION

Unravelling the puzzle of Somali piracy has brought to light several significant factors that have enabled piracy to thrive within Somalia and the diverse challenges surrounding how to sufficiently suppress piracy off the coast of Somalia. Analysing the phenomena from a Somali perspective to piracy has offered a greater understanding of the political and social context, impact to the political economy and identified stakeholder of Somali piracy. The analysis has ingrained that there is the need for a “Somali first” approach to sufficiently confront the multifacets challenges of piracy.

Piracy is first and foremost a profit-driven illicit activity which has been fuelled by the low-risk and high-rewards of pirate operations. The phrase “opportunity makes the pirate” accurately depicts Somali piracy as the busy sea routes with high volumes of daily commercial traffic of vessels travelling across the Somali Basin, Indian Ocean, Gulf of Aden, and Red Sea has provided pirates with an ample of opportunities to hijack vessels. Furthermore, the political and social conditions of Somali pirates have significantly enabled piracy to thrive. As the security and political vacuum within the coastal areas where pirates operate have provided pirates with secure areas to anchor hijacked ships during the negotiation stage. The capture of Iceberg I which lasted 1,004 days highlighted the importance for pirates to secure anchorage bases. In some cases, the absence of adequate law enforcements have facilitated pirates to anchor ships for a long duration of time but in other cases pirates have had stable alliances of stakeholders who are willing or able or forced to provide protection against law enforcement. The eroded state power, complicity, corruption and the absence of the rule of law are significant factors concerning Somali piracy which need to be addressed. Pirates have also exploited the political fragmentation

between clan elders, businessmen and local officials for when regional authorities are weak, corrupt and undermined by infighting along clan lines, pirates have moved in, hoping to affect the balance of power to favour their interests. Furthermore, pirate networks have taken advantage of the underdevelopment, poverty and lack of legitimate employment opportunities to recruit unemployed youths into the criminal enterprise. The pirate stock-exchanges have provided pirates with the support needed to gain local legitimacy and to fund their operations. The political economy approach explained the importance of informal and shadow economies, when economic governance of the state is weak, pirates have in particular incentivised locals to participate in the pirate activity and have offered economic benefits in return. Needless to say that pirate networks have employed a diverse mix of financial inducements and physical coercion to obtain stakeholders support. Therefore, it is necessary in counter-piracy strategies to address these challenges, in particular to confront economic scarcities, encourage economic growth, and to offer alternative economic opportunities for the general public in Somalia.

To date, there have been substantial efforts from various stakeholders to address the challenges surrounding Somali piracy; this is largely due to growing concerns that piracy may pose a potential threat to international security, leading to further conflict and acts of terrorism. Therefore, international actors have implemented short-term and long-term measures to suppress piracy. The international naval forces have effectively reduced the number of successful hijackings by containing the maritime attacks. However, these methods essentially only treat the mere symptoms of piracy, as there is a noticeable gap between the international community's rhetoric and its action. Piracy off the Somali coast has been able to prosper as states persist in treating piracy as a largely sea-based, rather than as a land-based problem with a maritime dimension. Although there have been some efforts to tackle the root causes of piracy through EU's comprehensive approach to piracy, these efforts remain confined to the urban cities within Somalia and neglect the rural coastal areas where in fact piracy occurs. However, security does remain a paramount issue that challenges the efficiency of institutional and operational capacity. Therefore, creating an effective and accountable police force and judiciary is critical to combat piracy and to achieve peace, one that will catalyse positive developments in the economy and earn state legitimacy in the eyes of the public.

Confronting the challenges of Somali piracy is essential to achieving sustainable result. Somali actors face a difficult challenges moving forward but the piracy problem provides an opportunity to improve cooperation across regional administrations and to address the deficiencies within Somalia. Placing Somali actors at the forefront of countering piracy will prove to be a valuable lesson, but the performance of Somali actors must be contextualised within the prevailing circumstances, as the actors would be operating under difficult and uniquely challenging political, economic and security environment.

To conclude, in order to achieve sustainable results to counter piracy off the Somali coast, it is pivotal to place local ownerships. This will equip Somali actors with the relevant tools to confront future challenges, without the dependency on international actors. Thus, this thesis encourages Somali solutions, to Somali problems.

## RECOMMENDATION

The thesis recommends first and foremost to the local, then regional, and international actors of Somalia to:

### *Strengthen the Rule of Law*

The need to strengthen the rule of law is imperative to suppress piracy and to ensure the protection of human rights by the local authority. The regional and international actors can support the local actors through capacity-building in the police, judiciary, and prison sectors.

### *Enhance Good Governance*

The fragmented and complex political landscape of Somalia has weakened governance structures in Somalia, which pirates have exploited to their advantage. Therefore, Somali actors should strive to ensure that there are recognised governance structures across the region, especially in the lonesome coastal areas where the pirates have a stronghold.

### *Implement Maritime Law Enforcement and Security*

The end of the international naval force mandate is approaching; hence it is crucial for local maritime actors to urgently establish a common maritime law enforcement to ensure security across the region.

### *Economic Growth*

Pirate networks have exploited the underdevelopment, poverty and lack of legitimate employment opportunities to recruit jobless youth into the criminal pirate enterprises. Therefore, it is necessary for Somalis – actors, diaspora, entrepreneurs, etc. – to engage in sustainable livelihood programmes and to create alternative employment opportunities in order to promote economic activities.

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## ANNEX

## I. GLOBAL PIRACY PROSECUTIONS

COUNTRY		NUMBER HELD	NOTES
Belgium		1	1 convicted
Comoros		6	
France		15	5 convicted
Germany		10	
India		119	
Japan		4	
Kenya		143	50 convicted
Madagascar		12	
Malaysia		7	
Maldives		37	Awaiting deportation in absence of a law under which to prosecute
Netherlands		29	10 convicted
Oman		22	All convicted
Seychelles		70	63 convicted
Somalia	Puntland	290	Approximately 240 convicted
	Somaliland	94	68 convicted (approximately 60 subsequently released)
	South Central	18	Status of trial unclear
Republic of Korea		5	5 convicted, appeal pending before the Supreme Court
Spain		2	Both convicted

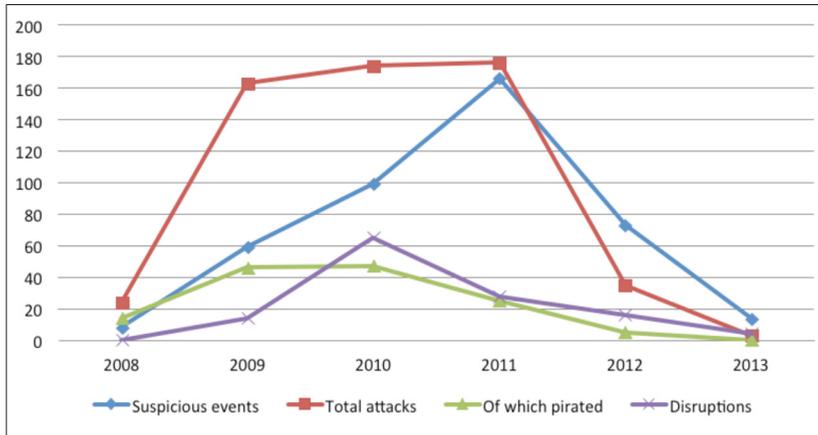
*(to follow)*

UNRAVELLING THE PUZZLE OF PIRACY. A SOMALI PERSPECTIVE

COUNTRY	NUMBER HELD	NOTES
United Arab Emirates	10	
United Republic of Tanzania	12	6 convicted
United States of America	28	17 convicted
Yemen	129	123 convicted and 6 acquitted
Total States: 20	1,063	

Source: UNSC, 2012, p. 5.

II. PIRACY STATISTICS



Source: EU NAVOR Somalia, 2013, available at <http://eunavfor.eu/key-facts-and-figures/>.

## III. PROMINENT RANSOM DISTRIBUTION

*Prominent ransom payments to Somali pirates, 2011*

SHIP NAME	DATE OF HIJACK	DATE RELEASED	DAYS HELD	RANSOM PAID (\$US MILLIONS)
<i>Motivator</i>	Jul 2010	Jan 2011	196	4.97
<i>Izumi</i>	Oct 2010	Feb 2011	141	4.5
<i>EMS River</i>	Dec 2010	Mar 2011	64	3.0
<i>RAK Afrikana</i>	Apr 2010	Mar 2011	332	1.20
<i>York</i>	Oct 2010	Mar 2011	137	4.5
<i>Haniball II</i>	Nov 2010	Mar 2011	120	2.0
<i>Jaban Moni</i>	Dec 2010	Mar 2011	99	4.0
<i>Irene SL</i>	Feb 2011	Apr 2011	57	(Allegedly) 13.5
<i>Thor Nexus</i>	Dec 2010	Apr 2011	108	5.0
<i>Beluga Nomination</i>	Jan 2011	Apr 2011	81	5.0
<i>Asphalt Venture</i>	Sep 2010	Apr 2011	199	3.6
<i>Renaur</i>	Dec 2010	Apr 2011	133	6.0
<i>Jib Chun Tsai No. 68</i>	Mar 2010	May 2011	397	8.0
<i>Sinar Kudus</i>	Mar 2011	May 2011	46	4.5
<i>Yuan Xiang</i>	Nov 2010	May 2011	170	3.6
<i>Vega 5</i>	Dec 2010	May 2011	134	5.0
<i>Khaled Mubieddine K</i>	Jan 2011	May 2011	125	2.5
<i>Zirku</i>	Mar 2011	Jun 2011	75	12.0
<i>Suez</i>	Aug 2011	Jun 2011	315	2.10
<i>Susan K</i>	Apr 2011	Jun 2011	69	5.70
<i>Juba XX</i>	Jul 2011	Jul 2011	11	0.20
<i>Sinin</i>	Feb 2011	Aug 2011	182	4.0
<i>Eagle</i>	Jan 2011	Aug 2011	214	4.0
<i>Polar</i>	Oct 2010	Aug 2011	300	7.7
<i>Panama</i>	Dec 2010	Sep 2011	270	7.0
<i>SY ING (Danish hostages)</i>	Feb 2011	Sep 2011	195	3.0
<i>Hoang Son Sun</i>	Jan 2011	Sep 2011	243	4.5

*(to follow)*

UNRAVELLING THE PUZZLE OF PIRACY. A SOMALI PERSPECTIVE

SHIP NAME	DATE OF HIJACK	DATE RELEASED	DAYS HELD	RANSOM PAID (\$US MILLIONS)
<i>Dover</i>	Feb 2011	Sep 2011	214	3.5
<i>Blida</i>	Jan 2011	Nov 2011	306	6.0
<i>Rosalia D'Amato</i>	Apr 2011	Nov 2011	218	6.0
<i>Gemini</i>	Apr 2011	Nov 2011	214	4.05
<i>Savina Caylyn</i>	Feb 2011	Nov 2011	214	4.05
Total	159.62			

Source: Chalk & Hansen, 2012.

IV. RANSOM DISTRIBUTION

(a) *Distribution of ransom from MV Victoria*

POSITION	PAYMENT IN US \$
Commander-in-Chief, financial backer	900,000
Interpreter – Looyan	60,000
Accountant	60,000
Supply Officer, logistician	30,000
First pirate to board the vessel	150,000
Eight additional hijackers (each)	41,000
Head Chef	20,000
Sous Chef	9,000
Twenty Holders (each)	12,000
Total	1.8 million

Source: Bahadur, 2011; Financial Action Task Force, 2011.

*(b) Typical distribution of ransom payment*

Maritime militia	30 per cent	Distributed equally between all members although the first pirate to board a ship receives double shares or a vehicle. Pirates who fight other pirates must pay a fine. Compensation is paid to the family of any pirate killed.
Ground Militia	10 per cent	
Local Community	10 per cent	Elders, local officials, visitors, and for reasons of hospitality for guests and associates of the pirates.
Financiers	20 per cent	The financier usually shares his earnings with other financiers and political allies.
Sponsor	30 per cent	

*Source: SEMG, 2008, p. 31.*

